

<b>Bath &amp; North East Somerset Council</b>		
MEETING/ DECISION MAKER:	<b>Licensing Committee</b>	
MEETING/ DECISION DATE:	<b>Thursday 18<sup>th</sup> February 2021</b>	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	<b>Response to the publication of Statutory Guidance on Taxi and Private Hire Vehicle Standards by the Department of Transport</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<p><b>List of attachments to this report:</b></p> <p><b>Annex A – Statutory Taxi and Private Hire Vehicle Standards (“the Statutory Guidance”)</b></p> <p><b>Annex B – Measures suggested in Statutory Guidance and B&amp;NES’ existing measures</b></p> <p><b>Annex C – Measures suggested in Statutory Guidance and B&amp;NES’ suggested course of action</b></p>		

## **1 THE ISSUE**

- 1.1 The report sets out the proposed response to the guidance set out in the Statutory Taxi & Private Hire Vehicle Standards published by the Department for Transport in July 2020.

## **2 RECOMMENDATION**

- 2.1 The Committee is asked to:

- (i) consider the proposals in respect of any action to be taken; and
- (ii) approve the proposed action.

## **3 THE REPORT**

- 3.1 In July 2020 the Department for Transport published the Statutory Taxi & Private Hire Vehicle Standards (“The Statutory Guidance”) (The document is produced at **Annex A**).
- 3.2 Licensing authorities are under a legal duty, under section 177 of the Policing and Crime Act 2017, to have regard to the Statutory Guidance. In the interests of transparency, all licensing authorities are required to publish their consideration of the measures contained in the Statutory Guidance and the policies and delivery plans that stem from these.
- 3.3 The Department for Transport expects the recommendations in the Statutory Guidance to be implemented unless there is a compelling local reason not to do so.
- 3.4 The Secretary of State is asking all licensing authorities to provide an update to the Department of their consideration of the Statutory Guidance six months after their publication, so by the end of January 2021. (However, the Department is aware of the challenges caused by the current coronavirus pandemic and is mindful of this).
- 3.5 The Statutory Guidance provides a wide range of measures that are focused on the protection of children and vulnerable adults and by extension, the wider public travelling in licensed taxi and private hire vehicles.
- 3.6 In addition to the protection of the public that the implementation of the measures may afford, ensuring compliance with the Statutory Guidance is likely to assist the Authority’s defence in the case of legal challenge to its implementation of licensing policies and practices.
- 3.7 As a licensing authority, the Council starts from a strong position, in that systems are already in place that are compliant with many of the suggestions and requirements in the Statutory Guidance. A table of suggestions and existing measures already in place is produced at **Annex B**.
- 3.8 However, areas have been identified where further work by the Authority is required to identify and quantify the impact of the recommended measures on the Council, Licensees and the public who are intended to be protected by the Statutory Guidance. These areas have been considered along with a proposed course of action to explore these suggestions, to ensure that the authority’s approach to safeguarding members of the public is both robust and fit for purpose, whilst balancing the regulatory burden placed upon the Council and/or Licensees. A table of suggestions and the suggested course of action for each is produced at **Annex C**.
- 3.9 Whilst the Authority must have regard to the Statutory Guidance it remains the case that licensing authorities must reach their own decision on overall policies and individual licensing matters in light of the relevant legislation and case law.
- 3.10 The Statutory Guidance is clear in stating that “*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*” (para. 2.9 **Annex A**).

#### **4 STATUTORY CONSIDERATIONS**

- 4.1 Taxi Drivers, Vehicles and Operator Licenses are issued and administered under two primary pieces of legislation.
- 4.2 The Town Police Clauses Act 1847 sections 37 to 68 introduced the licensing regime for Hackney Carriage vehicles and drivers. Hackney Carriages are available for immediate public hire from taxi stands appointed by the Council.
- 4.3 Part 2 of the Local Government (Miscellaneous Provisions) Act 1976 introduced the licensing regime for Private Hire vehicles, drivers and operators for local Authorities outside of London. Private Hire vehicles must be pre-booked through a licensed Operator.
- 4.4 Section 177 of the Policing and Crime Act 2017 provides that -
- (1) 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.
  - (2) The Secretary of State may revise any guidance issued under this section.
  - (3) The Secretary of State must arrange for any guidance issued under this section, and any revision of it, to be published.
  - (4) Any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section.
  - (5) Before issuing guidance under this section, the Secretary of State must consult—
    - (a) the National Police Chiefs' Council,
    - (b) persons who appear to the Secretary of State to represent the interests of public authorities who are required to have regard to the guidance,
    - (c) persons who appear to the Secretary of State to represent the interests of those whose livelihood is affected by the exercise of the licensing functions to which the guidance relates, and
    - (d) such other persons as the Secretary of State considers appropriate.
  - (6) In this section, “taxi and private hire vehicle legislation” means—
    - (a) the London Hackney Carriages Act 1843;
    - (b) sections 37 to 68 of the Town Police Clauses Act 1847;
    - (c) the Metropolitan Public Carriage Act 1869;
    - (d) Part 2 of the Local Government (Miscellaneous Provisions) Act 1976;
    - (e) the Private Hire Vehicles (London) Act 1998;
    - (f) the Plymouth City Council Act 1975.

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 There are no resource implications arising from this report. The costs of any proposed consultations or further work associated from the Statutory Guidance is recoverable through the licensing fee regime.

## **6 RISK MANAGEMENT**

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

## **7 CLIMATE CHANGE**

- 7.1 The Acts which provide the licensing regimes are prescriptive and do not take account of the climate change agenda at this time. We look forward to changes in legislation which will allow the Council to take this into consideration in the future. In the meantime, individual applicants and licensees are encouraged to consider climate change issues in the operation of their businesses and the Council has taken steps to encourage this, such as the creation of the Clean Air Zone which encourages Licensees to use less polluting vehicles.

## **8 OTHER OPTIONS CONSIDERED**

- 8.1 None

## **9 CONSULTATION**

- 9.1 The Council's Monitoring Officer (Interim Head of Legal & Democratic Services) and Section 151 Officer (Director of Finance) and Information Governance Officer have all had the opportunity to input to this report and have cleared it for publication

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<b>Background papers</b>	Statutory Taxi & Private Hire Vehicle Standards Document
<b>Please contact the report author if you need to access this report in an alternative format</b>	



Department  
for Transport

# Statutory Taxi & Private Hire Vehicle Standards

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# 1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables 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. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
  - (b) is experiencing, or is at risk of, abuse or neglect, and
  - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.



- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

## Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

## 2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 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.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 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.

### 3. Administering the Licensing Regime

#### Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

*"It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride."*

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

*"Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction."*

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **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.**

## Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 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.

## 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.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 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. More information is available online for [employees](#) and [employers](#).

### 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.

### 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.

## 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

- 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.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.



## The Disclosure and Barring Service Update Service

- 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.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

### Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 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.**

### 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. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

### Referrals to the Disclosure and Barring Service and the Police

- 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.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

## Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

## 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.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. 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.**

- 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.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

### **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.

### 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.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.
- 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.
- 4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.
- 4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

### 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.

## 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.
- 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.

### Training 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. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
  - any implications of the Human Rights Act should be considered.
  - the rules of natural justice should be observed.
  - decisions must be reasonable and proportionate.
  - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
  - decision makers must avoid bias (or even the appearance of bias) and predetermination.
  - data protection legislation.



- 5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

### 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.
- 5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:
- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
  - Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.
- 5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.
- 5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.
- 5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close



connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 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.

### 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 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. 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.

### 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.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all 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 a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

## 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.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **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.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 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.

### Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

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.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

### **‘County lines’ exploitation**

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

### 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.

## 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 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require 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). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.
- 7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.
- 7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.
- 7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

### **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. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

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.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or



drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 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. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

### **Stretched Limousines**

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. 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. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.



## 8. Private Hire Vehicle 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). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.
- 8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately
- 8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

### Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 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.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

- 8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

## 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.

## 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.**

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

## 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. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

### Setting expectations and monitoring

- 9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere to 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.
- 9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

### Suspension and revocation of driver licences

- 9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

- 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.
- 9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.
- 9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.
- 9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

## Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is ‘fit and proper’ to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

**Authorities must consider each case on its own merits, and applicants/licensees 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.

### Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

### Exploitation

Where an applicant or licensee 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 be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

### Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

### Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

### Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

### Dishonesty

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 seven years have elapsed since the completion of any sentence imposed.



## Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

## Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

## Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

## Drink driving/driving under the influence of 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 seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

## Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.



## Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
<b>Unspent convictions</b>	Yes	Yes	Yes	Yes
<b>Unspent cautions</b> <sup>1</sup>	Yes	Yes	Yes	Yes
<b>Spent convictions</b> <sup>2</sup>	No	Yes	Yes	Yes
<b>Spent cautions</b> <sup>1 &amp; 2</sup>	No	Yes	Yes	Yes
<b>Additional police Information</b> <sup>3</sup>	No	No	Yes	Yes
<b>Barred list(s) Information</b> <sup>4</sup>	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

## Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

## Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

## ANNEX B

Content Heading and Section Reference	Response
<p><b>Licensing policies</b></p> <p>3.1 – 3.5</p> <p>“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.”</p>	<p>B&amp;NES’ Policy on Vehicle, Operator, and Drivers Standards is regularly reviewed, updated and published with the last full review occurring in late 2018 and changes implemented in January 2019. The Policy was also further amended in 2020 to encompass exemptions for taxi vehicles under the impending Clean Air Zone. The full policy is published on the Councils web site (link below):</p> <p><a href="#">B&amp;NES Policies and Conditions</a></p> <p>Comprehensive licence condition documents are in place for Vehicles, Operators and Drivers and are all published on the Councils web site (link as above).</p> <p>All conditions were fully reviewed in late 2018 and updates were implemented in January 2019.</p> <p>B&amp;NES’ Policy on Vehicle, Operator, and Drivers Standards includes policies on convictions, ‘fit and proper’, licence conditions and vehicle standards. In the event of significant issues arising in B&amp;NES’ area the policies and standards would be consulted upon and reviewed.</p>
<p><b>Duration of licences</b></p> <p>3.6 - 3.7</p> <p>“Licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to travelling public they use their Common Law Police Disclosure powers.”</p> <p>“The Local Government (Miscellaneous</p>	<p>B&amp;NES Licensing has a Common Law Police Disclosure agreement in place with the Avon &amp; Somerset Constabulary to facilitate disclosure of relevant information to the Council.</p> <p>B&amp;NES follows the standard suggested length of duration for all licenses issued under the LG(MP) 1976 Act and does not issue probationary Licenses under any circumstances.</p> <p>(B&amp;NES does not currently carry out interim checks and this is discussed in Annex C section 6.2).</p>

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”	
<b>Whistleblowing</b>  3.8 to 3.11  “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.”	B&NES has a comprehensive Whistleblowing Policy which is available to all staff via the Council’s intranet. The policy sets out internal procedures for raising concerns and how they will be dealt with.
<b>Consultation at the local level</b>  3.12 – 3.13  “licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.”	B&NES consults widely with various stakeholders including the existing taxi trade, internally with other teams and externally with other stakeholders and user groups before implementing any changes to local policies and conditions.

<p><b>Changing licensing policy and requirements</b></p> <p>3.14 to 3.15</p> <p>“Any changes in licensing requirements should be followed by a review of the licences already issued.”</p>	<p>This is current Licensing protocol.</p> <p>The Licensing Authority has regard to proportionality and the impacts of new policies and training requirements on existing licensees is considered as standard practice</p>
<p><b>The Disclosure and Barring Service</b></p> <p>4.1 – 4.4</p> <p>“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.”</p> <p>“The appropriate way of accessing an individual’s criminal records is through an enhanced DBS and barred lists check.”</p>	<p>B&amp;NES require an Enhanced DBS Certificate in respect of every new and existing taxi driver licensed by the Authority. No licence is granted until this check has been carried out successfully.</p>

<p><b>The Disclosure and Barring Service Update Service</b></p> <p>4.5 - 4.6</p> <p>“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</p>	<p>B&amp;NES’ Policy requires that licensed taxi drivers maintain an online account with the DBS which enables an immediate real time check on the status of an issued DBS certificate on renewal of the licence.</p>
<p><b>Common Law Police Disclosure</b></p> <p>4.9 – 4.11</p> <p>“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.”</p>	<p>B&amp;NES Licensing has a Common Law Police Disclosure agreement in place with the Avon &amp; Somerset Constabulary to facilitate disclosure of relevant information between the Council and the Police.</p>
<p><b>Licensee self-reporting</b></p> <p>4.12 – 4.13</p>	<p>B&amp;NES has a condition in place which states <i>“If a licensee is accused of any criminal activity that is the subject of an active Police investigation they should inform the Licensing Office as soon as reasonably practicable and in any event within 24 hours of such investigation being commenced. The licensee</i></p>



<p>“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.”</p>	<p><i>should provide as much information as possible that does not prejudice the investigation. Licensees who have allegations made against them involving sexual misconduct may have their licence immediately revoked or suspended on the grounds of immediate public safety”.</i></p> <p>In these circumstances B&amp;NES carries out a review and where appropriate refers the matter to Licensing Sub Committee for consideration of whether or not the licensee remains fit and proper on the balance of probabilities, to continue to hold their licence.</p>
<p><b>Referrals to the Disclosure and Barring Service and the Police</b></p> <p>4.14 – 4.16</p> <p>“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.”</p>	<p>Referrals will be made subject to the listed criteria and in consultation with Senior Officers including the relevant Council Safeguarding Teams responsible for Children and Vulnerable Adults.</p>
<p><b>Working with the Police</b></p>	<p>The Licensing Authority maintains a good working relationship with the Police and will always assist with information and intelligence sharing where appropriate and lawful.</p>

<p>4.17 to 4.19</p> <p>“Action taken by the licensing authority as a result of information received should be fed-back to the police.”</p>	<p>A formal Common Law Disclosure Protocol is in place to allow the sharing of information.</p>
<p><b>Multi-agency Safeguarding Hub (MASH)</b></p> <p>4.26 – 4.28</p> <p>“All licensing authorities should operate or establish a means to facilitate the objectives of MASH (i.e. the sharing of necessary and relevant information between stakeholders).”</p>	<p>B&amp;NES has a Multi-Agency Safeguarding Hub in operation to enable a joint approach to allegations and appropriate information sharing across teams and the Police.</p>
<p><b>Complaints against licensees</b></p> <p>4.29 – 4.33</p> <p>“All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.”</p>	<p>B&amp;NES records all complaints received and monitors complaints received in relation to drivers to ensure that multiple complaints will result in the licensee being referred to the Council’s Licensing Sub-Committee where appropriate. All complaints are retained for future reference to ensure a long-term picture of compliance with licensing regulations and behaviour patterns towards customers and members of the public is available.</p> <p>From 1<sup>st</sup> April 2021 all complaints will be recorded on the Council’s proprietary database system to enable analysis of complaint received. This will be in addition to the complaint being recorded on a driver’s or Operator’s file and will provide a useful tool to monitor the frequency and nature of complaints received both short and long term.</p> <p>B&amp;NES provides information on how to complain to the Council in every licensed vehicle with an internal comment plate that is required to be plainly visible to passengers.</p> <p>Licensed Operators are required to maintain a record of</p>

<p>“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 a complaint to the authority should be displayed on all licensed vehicles.”</p> <p>“Licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.”</p>	<p>complaints and where complaints involve discrimination, violence, dishonesty or sexual misconduct the Operator is required to forward the complaint to the Council within 24 hours.</p> <p>The Licensing web pages provide advice and online forms to enable anyone wishing to make a complaint to contact licensing directly via the web resource:</p> <p><a href="#">Public Report A Taxi Driver Form</a></p>
<p><b>Overseas convictions</b></p> <p>4.34 – 4.36</p> <p>“A DBS check may not provide a complete picture of an individual’s criminal record where there have been periods living or working</p>	<p>B&amp;NES require non-UK born applicants and UK applicants who have been living abroad to provide original documents certifying good character from the relevant Police authority in the country of origin. These documents must be original and obtained within a month of the date of application. Original documents must be accompanied by a certified translation document. A valid DBS check is then obtained for every applicant regardless of country of origin or time spent in the UK prior to applying for a licence.</p>

<p>overseas.”</p> <p>“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.”</p>	
<p><b>Administration of the licensing framework</b></p> <p>5.1 -5.2</p> <p>“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).”</p>	<p>All major policy decisions are ratified by the full Licensing Committee, contentious matters outside of existing policy requirements or disciplinary matters are referred to the Licensing Sub-Committee for consideration and determination.</p>
<p><b>The regulatory structure</b></p> <p>5.6 -5.11</p> <p>“It is recommended</p>	<p>This is the framework that the taxi licensing functions work within, with policy and procedural matters determined and approved by the Licensing Committee, regulatory and contentious matters devolved to the Licensing Sub-Committee and officer decision-making procedures in place for non-contentious or emergency situations requiring immediate action to ensure public safety.</p>

<p>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 suitably trained councillors drawn from a larger Regulatory Committee or Board.”</p> <p>“Less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.”</p> <p>“All licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.”</p>	<p>The Terms of Reference for the Licensing Committee set out the regulatory structure for determining licensing matters:</p> <p><a href="#">Terms Of Reference Policy</a></p> <p>The authority has a Good Practice Guide for Members and Officers dealing with Licensing Matters:</p> <p><a href="#">Licensing Good Practise Document</a></p> <p>The Policy on Hackney Carriage and Private Hire Licensing Standards for Drivers, Vehicles and Operators clearly sets out decisions that will be taken by officers and those that will be taken by the Licensing Sub-Committee and the reasons why:</p> <p><a href="#">Current Policy Document</a></p>
<p><b>Fit and proper test</b></p> <p>5.12 – 5.14</p> <p>“Licensing</p>	<p>It is a legal requirement that driver’s and operators must be ‘fit and proper’ for a licence to be granted under the Local Government (Miscellaneous Provisions) Act 1976. In determining fit and proper the B&amp;NES Licensing Sub-Committee has used the following term of</p>

<p>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:</p> <p><b>Without 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?"</b></p>	<p>reference "<i>Members have asked themselves if they would allow their friends, loved ones and indeed all members of the community to travel alone in a vehicle driven by this person</i>" which is considered to be substantively the same as the suggestion in the Standards Guidance.</p> <p>Members of the Licensing Sub-Committee are aware that decisions on the suitability of an applicant or licensee are made on the balance of probabilities.</p>
<p><b>Safeguarding awareness</b></p> <p>6.5 -6.7</p> <p>"All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle</p>	<p>All licensed taxi drivers are required to attend an approved Taxi Drivers Safeguarding course to increase awareness of how to spot potential issues and what to do once those issues are identified or suspected.</p> <p>This requirement is set out in the authority's Policy on Hackney Carriage and Private Hire Licensing Standards for Drivers, Vehicles and Operators at paragraph 27:</p> <p><a href="#">Current Policy Document</a></p>

drivers to undertake safeguarding training.”	
<b>County lines’ exploitation</b>  6.8 – 6.13 “Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation.”	The current approved Safeguarding Course is specifically aimed at taxi drivers and contains specific training on recognising the signs of County Lines Exploitation and directions on how recognise and report any suspected activity.  <a href="#">Safeguarding Course Details</a>
<b>Stretched Limousines</b>  7.14 - 7.15  Licensing authorities should approach requests to licence small limousines as a private hire vehicle, as having a legitimate role to play in the trade, meeting a public demand.	B&NES is compliant in its approach to licensing this category of vehicle.
<b>Criminality checks for private hire vehicle operators</b>  8.3 – 8.6  “Licensing authorities should request a basic disclosure from	B&NES is compliant in its approach to licensing Operators with either individual sole traders or all directors required to submit a Basic Disclosure before a licence is issued.  (Annual checks are not currently carried out and this is discussed in Annex C)

<p>the DBS and that a check is undertaken annually.”</p> <p>“Licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in [the] company or partnership [that applies for an operator licence].”</p>	
<p><b>Setting expectations and monitoring</b></p> <p>9.3 – 9.4</p> <p>“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.”</p>	<p>All drivers, operators and vehicle proprietors are required to sign to indicate they understand and accept the current Council Policy and Conditions in force at the time of applying for a licence (new or renewals).</p> <p>The Licensing Authority currently employs a stepped approach to complaints investigation and enforcement issues with the ultimate sanction being referral to the Councils’ Licensing Sub-Committee. However, given the potential long-term activity in the trade of some licensees each case must be taken on its merits and due consideration must be given to time periods between complaints balanced against the nature of the complaint. Any decision is fully documented to withstand scrutiny and to ensure transparent and robust decision making.</p>
<p><b>Suspension and revocation of driver licences</b></p> <p>9.5 – 9.10</p> <p>“Licensing authorities have the option to</p>	<p>This is the current practice that B&amp;NES follows when considering the suspension or revocation of a Combined Hackney Carriage/Private Hire Drivers licence.</p>



<p>suspend or revoke a licence should information be received that causes concern over whether the driver is a fit and proper person...this determination must be reached on the balance of probabilities.”</p> <p>“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.”</p>	
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## ANNEX C

Content Heading and Section Reference	Response
<p><b>Sharing licensing information with other licensing authorities</b></p> <p>4.20 – 4.25</p> <p>“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.”</p> <p>“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.”</p>	<p>Whilst B&amp;NES does not have these protocols in place at the present time, it is considered that joining the National NR3 Database to record licensing decisions made by this authority and to check new applications against the database to ascertain the validity of an application, to be of paramount importance in respect of safeguarding.</p> <p>Resources will be directed towards joining the national database and in conjunction with this piece of work a full review of all application forms and web resources will be carried out to update and ensure compliance with the standards in the guidance. To be completed 2021.</p>
<p><b>Training decision makers</b></p> <p>5.3 – 5.5</p> <p>“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.”</p> <p>Training should include the use of case study material and should be formally recorded by the licensing authority and</p>	<p>The Authority has a good level of compliance in relation to the Standards’ Guidance suggestions for the training of decision makers. The authority will examine the details of training provided to date and identify if there are any areas where this can be enhanced. Where enhancements are identified members will be invited to attend additional training, and on completion this will be added to members’ training records. The outcome of this exercise will be reported to the next meeting of the Licensing Committee that considers this Standards’ Guidance.</p> <p>Officers that determine whether a licence should be issued undertake</p>

<p>require a signature from the person that has received the training.</p>	<p>their own training and assist in delivering training to members for the suggested areas identified in the Standards Guidance.</p> <p>Members of the Licensing Committee and Sub-Committee are trained and receive advice as part of their decision-making, in the areas suggested by the Standards' Guidance.</p> <p>The member training involves the use of case studies and a formal record of their training is kept by Democratic Services although this is not accompanied by a signature confirming attendance. The spirit of the Standards' Guidance is complied with here even though this authority's arrangements are not identical to those suggested.</p> <p>There is a Good Practice Guide for Members and Officers dealing with Licensing Matters:</p> <p><a href="#">Licensing Good Practise Document</a></p> <p>Members receive training on predetermination and bias and are aware of the correct procedure to follow if they have an interest (pecuniary or non-pecuniary) in an item before the committee.</p>
<p><b>Criminal convictions and rehabilitation</b></p> <p>5.15 – 5.17</p> <p>“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 licensed regardless of the period</p>	<p>B&amp;NES currently has a robust convictions and rehabilitation policy applicable to new and existing licensees which was reviewed in late 2018.</p> <p>A direct comparison of the standards suggested in the Guidance against the standards which are already in place will be carried out and any suggested changes will be the subject of a formal</p>

<p>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</p>	<p>consultation exercise. The Chair of the Licensing Committee and Cabinet Member with responsibility for licensing will be consulted in relation to the launch of the consultation. The responses and recommendations arising out of the consultation process will be referred to the Licensing Committee to make a recommendation to Cabinet that they are formally adopted.</p>
<p><b>Criminality checks for drivers</b></p> <p>6.1 - 6.4</p> <p>“All individuals applying for or renewing a taxi or private hire vehicles driver 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.”</p> <p>“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.”</p> <p>“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. Should a licensing authority consider there to be exceptional circumstances which mean that, based on the balance of probabilities they consider an individual named on a barred list to be ‘fit and proper’, the reasons for reaching this conclusion should be recorded.”</p>	<p>In line with current standard practice drivers DBS status is checked on application and renewal of the licence, this check includes the children and adult Barred Lists.</p> <p>The suggestion of interim 6 monthly checks would only be achievable by setting up an automated Multi Check Facility (MCF) facility. This will allow the automated checking of all of our existing licensees.</p> <p>This will be explored with the Council’s IT teams with a view to implement unless technical hardware reasons prevent it.</p> <p>If for technical reasons this MCF cannot be achieved within B&amp;NES then this suggestion will not be possible to implement. The resources required to manually check over 650+ licensees every six months would severely impact on the ability of Officer’s to deliver and maintain other licensing functions.</p> <p>To put this in proportion based on practical experience the risk of a conviction being revealed is minimal as practical experience of 25 years of renewing licenses and carrying out DBS checks has not revealed non-</p>

<p>“Drivers working under an arrangement to transport children may be working in a ‘regulated activity’...it is an offence to knowingly allow a barred individual to work in a regulated activity.”</p>	<p>disclosure of a serious conviction in that time.</p> <p>The authority will examine its existing policy with reference to applicants that appear on either barred list. If work needs to be done to address this within the policy, this will be dealt with as part of the work relating to criminal records as above at <b>Criminal convictions and rehabilitation</b>.</p> <p>Where a BANES licensed driver wishes to take on home to school contracts, they are subject to additional checks by the Passenger Transport Team as they will be working in a ‘regulated activity’.</p>
<p><b>Language proficiency</b></p> <p>6.14 – 6.15</p> <p>“Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others. A Licensing authority’s test of a driver’s proficiency should cover both oral and written English language skills to achieve the objectives stated.</p>	<p>B&amp;NES Licensing requires that new applicants have a comprehensive English spoken language test that is taken in front of an Officer via a telephone. The applicant’s communication skills are tested across the following four key components of communication 1) <i>Sentence Mastery</i> 2) <i>Vocabulary</i> 3) <i>Fluency</i> 4) <i>Pronunciation</i>. The applicant’s verbal responses are analysed by algorithms to an accepted industry standard used widely to assess communication skills across business sectors. The results are delivered quickly via an online portal and provide a consistent assessment of the applicant’s verbal communication. The system provides an independent assessment that can withstand challenge in the case of an applicant failing the required standard of communication.</p> <p>We do not require an applicant to undertake written assessment and this suggested requirement is not as simple as it may appear. It is not within the scope of an Officer to make an</p>

	<p>objective assessment of an applicant's written ability as there is no available benchmark and therefore any decision is open to challenge and would be difficult to defend. The only acceptable way to assess an applicant's written skills would be through an educational qualification. This raises its own issues with the huge range of educational qualifications not only from within the UK but from countries outside of the UK.</p> <p>A list of acceptable qualifications would be almost impossible to maintain given the number of providers available in various locations globally.</p> <p>Whilst the authority could require a local college course to be completed this is still open to challenge from an applicant who has a valid qualification from another educational establishment as to why the Authority will not recognise the previously obtained qualification.</p> <p>The requirement for a written English language qualification may present a barrier to entry into the taxi trade for otherwise suitable applicants.</p> <p>It is also debatable what the requirement of written language skills do to achieve an increase in safeguarding awareness as the main requirement for a taxi driver to be able to write legibly in the course of business is to provide a written receipt and with the rise in app based journeys this is becoming obsolete. It is felt that the spoken English ability is far more relevant and crucial to Safeguarding so that the driver can both understand conversations that are overheard and can then verbally relay any suspicions</p>
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	<p>or concerns to the relevant authorities, using real time verbal communication methods.</p> <p>Licensing is aware of a number of other local authorities who also are considering how to deliver this and whether or not it is a proposal that will be viable going forward. Further research is required and a robust non challengeable set of criteria to be achieved. Or if not practical then this suggestion should not be adopted. This will be reported back to the next meeting of the Licensing Committee that considers this Standards' Guidance.</p>
<p><b>Criminality checks for vehicle proprietors</b></p> <p>7.2 – 7.6</p> <p>“Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.”</p> <p>“Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership”.</p>	<p>Unlike the licensing of driver’s and operators, there is no requirement in the Local Government (Miscellaneous Provisions) Act 1976 for ‘fit and proper’ in relation to a vehicle proprietor’s licence. The authority is not clear on the lawful basis for imposing such a requirement and/or requesting a DBS check on a vehicle proprietor application in these circumstances.</p> <p>Licensing is aware of a number of other local authorities who also are considering if there is a legal basis for these suggestions, how to deliver this and whether or not it is a proposal that will be viable going forward.</p> <p>Further work will be done by this authority and reported back to the next meeting of the Licensing Committee that considers this Standards' Guidance.</p>

<p><b>In-vehicle visual and audio recording – CCTV</b></p> <p>7.7 – 7.13</p> <p>“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.</p>	<p>Currently B&amp;NES Licensing conditions are permissive to individuals who wish to install CCTV in a licensed vehicle. The only requirement is that the licensee inform the Authority that CCTV is installed and that the licensee has registered with the Information Commissioner's Office (ICO) as a Data Controller. This means the responsibility for all areas of data protection in respect of captured images falls to the licensee and not the Local Authority.</p> <p>The proposal to make CCTV a mandatory requirement would effectively mean that B&amp;NES would need to assume the mantle of Data Controller for an external workforce and all the images and equipment installed in almost 500 licensed vehicles. This brings resource and compliance implications for the Local Authority. Ensuring compliance to the satisfaction of the Local Authority will be an ongoing administrative and practical resource commitment.</p> <p>Furthermore, the only way to achieve this would be through a licensing condition. All licensing conditions must be reasonable, necessary, and proportionate and as such a number of consultations would be necessary with the trade and stakeholders initially. If the proposal to make CCTV mandatory was widely favoured, then a further Data Protection Impact Assessment would be undertaken, and this avenue explored further.</p> <p>From a trade perspective this may be a disproportionate approach as the LA already permits the use of CCTV and not all licensees currently have</p>
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	<p>implemented systems.</p> <p>Mandatory installation of a Council approved CCTV system will have a financial impact on a trade that is currently suffering due to an extreme lack of business due to the ongoing Coronavirus restrictions.</p> <p>The effect of a Council mandated system may also require existing users of CCTV systems to replace them with the Council's approved system.</p> <p>Some insurance companies require a CCTV system that they provide to be installed as part of the insurance agreement and in this case the Insurance company is the Data Controller, and this would conflict with a mandatory Council system.</p> <p>Licensing proposes to consult with the Council's Information Governance Team who would have to take on the role of Data Controller as a starting point. It will then consider if a broader consultation is appropriate to identify what the local circumstances are. In that event, the Chair of the Licensing Committee and the Cabinet Member will be consulted in relation to the launch of a consultation exercise.</p> <p>Licensing is aware of a number of other LA's who also are considering how to deliver this and whether or not it is a proposal that will be viable going forward with a number of know Authorities rejecting this proposal.</p> <p>Further enquiries will be made and reported back to the next meeting of the Licensing Committee that considers this Standards' Guidance.</p>
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<p><b>Criminality checks for private hire vehicle operators</b></p> <p>8.2</p> <p>“Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.</p>	<p>As discussed in Annex B, B&amp;NES requires a Basic DBS disclosure for all Private Hire Operators. Of the 116 licensed Private Hire Operators in B&amp;NES, 112 are small Operators who also hold Private Hire/Hackney Carriage driver’s licenses with this Authority and are therefore subject to a higher enhanced level of DBS checks. The exception to this model of working are 4 large national and international corporate entities who hold Operator licenses. The suggestion that Directors of these corporate entities should be subject to an annual basic DBS check (which cannot be maintained online via the Update Service) would require a change of licensing conditions. From practical experience in B&amp;NES no DBS check of an Operator has ever revealed a conviction (any conviction would require referral to the Licensing Sub-Committee) however, the authority will explore the possibility of introducing annual checks for the minority that do not hold a driver’s licence and will report back to the next meeting of the Licensing Committee that considers the Standards Guidance.</p>
<p><b>Booking and dispatch staff</b></p> <p>8.7 – 8.12</p> <p>“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.”</p> <p>“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</p>	<p>This whole section seems to be based on a view of how Operators dispatch bookings that is rapidly becoming obsolete. It suggests that all Operators have staffed offices which locally is not the case. In B&amp;NES 112 (out of a total of 116) of our licensed Operators operate from their residential addresses and often family members will assist in taking calls many of whom are regular local customers.</p> <p>Of our 4 large corporate Operators, 3 have completely automated booking systems with no human interaction at</p>

<p>DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders.</p>	<p>all and the 4<sup>th</sup> company uses an automated app system in conjunction with an outsourced call centre in Swindon which handles calls for vehicles from multiple authorities where licenses are held and sub-contracts them back to the original authority, in this case B&amp;NES. It would not be possible for B&amp;NES to condition the Swindon call centre as it is outside of its area however, this is a lawful arrangement for the Operator to have.</p> <p>Whilst this proposal may have some practical applications in other LA areas where this model of operation is the norm it would not seem to fit the local model of Operators that exists in B&amp;NES, in the case of our large Operators it would simply not fit their business model and in the case of the majority of our sole trader operator would require family members to be DBS checked. This could only be achieved by changing the local conditions applicable to Operators and all conditions should be reasonable and proportional. It is proposed to consult on the introductions of such a condition at the same time as consulting on the criminal convictions part of the policy. The Chair of the Licensing Committee and Cabinet Member will be consulted in relation to the launch of this consultation. The results and response to that exercise will be reported back to the next Licensing Committee that considers the Statutory Guidance.</p> <p>It should also be borne in mind that any new applications for large operators who intended to establish a large scale staffed Operating base in this authority could be granted subject to tailored conditions that covered these issues</p>
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	should it become necessary.
<p><b>Record keeping</b></p> <p>8.13 – 8.15</p> <p>“Licensing authorities should as a minimum require private hire vehicle operators to record the following:</p> <ul style="list-style-type: none"> <li>- Name of passenger;</li> <li>- Time of request;</li> <li>- Pick-up point;</li> <li>- Destination;</li> <li>- Name of driver;</li> <li>- Driver’s licence number;</li> <li>- Vehicle registration number of the vehicle;</li> <li>- Name of any individual that responded to the booking request;</li> <li>- Name of any individual that dispatched the vehicle.”</li> </ul> <p>“Booking records should be retained for a minimum of six months.”</p>	<p>The current Operator conditions in force in B&amp;NES require all of the booking information details suggested apart from the last two i.e. the name of any individual that responded to the request and the name of any individual who dispatched the vehicle.</p> <p>Although as noted above, in the case of large companies who receive bookings via apps there is no human involvement.</p> <p>In the case of the majority of sole traders it would be the licensee themselves or other household members who respond to the booking request and dispatch the vehicle.</p> <p>To adopt the additional two suggestions would require a change in the local conditions and this will be consulted upon at the same time as the consultation on Criminal Convictions. The Chair of the Licensing Committee and Cabinet Member will be consulted regarding the launch of the consultation. The results and response to that exercise will be reported back to the next Licensing Committee that considers the Statutory Guidance.</p> <p>It’s noted that the Dft do not state that the time a vehicle is booked to arrive should be recorded by the LA which would seem to be an omission.</p> <p>B&amp;NES current Private Hire Operators conditions require that records are kept and available for inspection for 12 months it is not proposed to amend this to 6 months.</p>

<p><b>Use of passenger carrying vehicles (PCV) licensed drivers</b></p> <p>8.16 – 8.17</p> <p>“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 operator’s licence without the informed consent of the booker.”</p>	<p>A PCV is a passenger carrying vehicle that can take 9 passengers or more. A licence to operate PCV’s is obtained from the Traffic Commissioner for the local area.</p> <p>A PHV Operator licensed by B&amp;NES is only permitted under the terms of the Private Hire Operators licence to dispatch licensed Private Hire vehicles and licensed Private Hire drivers.</p> <p>A PCV can only be dispatched by the holder of a PCV Operators licence issued by the Traffic Commissioner.</p> <p>If a holder of both licences utilises the same telephone number to accept bookings for both categories of vehicle it would be an unenforceable condition should it be implemented.</p> <p>If the holder of both licenses has separate phone numbers for each category, then a condition would not be required. Any condition that is implemented must be enforceable.</p> <p>This will be consulted upon at the same time as the consultation on Criminal Convictions. The Chair of the Licensing Committee and Cabinet Member will be consulted regarding the launch of the consultation. The results and response to that exercise will be reported back to the next Licensing Committee that considers the Statutory Guidance.</p>
<p><b>Joint authorisation of enforcement officers</b></p> <p>9.2</p>	<p>Whilst we do not have these protocols in place yet the value of this is clear and work will be undertaken to set up joint authorisations where the need arises.</p>

<p>“Licensing authorities should, where the need arises, jointly authorises (sic) officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area...Such an agreement will enable those authorities to take action against vehicles and drivers that are licensing by the other authority when they cross over boundaries.”</p>	<p>As a starting point the authority will explore with neighbouring authorities putting these arrangements in place.</p> <p>Progress will be reported back to the next meeting of the Licensing Committee that considers this Standards’ Guidance.</p>
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