

Taxi Licensing Policy

Summary

1. This report advises Members of the Department for Transport (DfT) ‘Statutory Taxi and Private Hire Vehicle Standards’ (the Standards) and changes that are required to the Taxi Licensing Policy to implement the recommendations within the Standards.
2. It asks Members to determine if a formal public consultation should take place with regards to some of the recommendations within the Standards that are not already implemented by the Council. It also asks if this consultation should cover other proposed changes to the Policy, such as environmental standards, vehicle age limits, vehicle colour, signage, tinted windows and vehicle testing standards. It being noted that the Coronavirus pandemic may have altered the context in which the results of earlier consultation on these matters was based (and in respect of the environmental standards and vehicle age Policy the Councils Executive have asked for further consultation prior to considering the Licensing Committee’s recommendations).
3. It also asks Members to determine that until such time that the formal public consultation has taken place, and the reviewed Policy is in place, that private hire operator licences are only issued for a maximum period of 12 months.

Recommendations

4. That Members take into consideration the requirements of and recommendation within the Standards and approve Option 1 of this report, namely:
 - i) Ask Officers to undertake a formal public consultation with regards to the recommendations from the DfT Statutory Taxi and Private Hire Vehicle Standards detailed at paragraph 15 of this report and other

potential changes. Bringing the results of the consultation back to this Committee.

- ii) Ask Officers to also undertake a formal public consultation with regards to additional changes to the Taxi Licensing Policy, outside the scope of the Standards.
- iii) Ask Officers to issue private hire operators licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

5. Reason:

- i) To gauge interested parties views on the recommendations within the DfT Statutory Taxi and Private Hire Vehicle Standards, and on additional changes to the Taxi Licensing Policy.
- ii) As private hire operator licences can be issued for a maximum period of five years, this will enable the Council to make sure appropriate conditions are placed on licences at the time of grant or renewal, following the consultation on and implementation of the reviewed Taxi Licensing Policy.

Background

- 6. The Standards were published by the DfT in July 2020. As an implementation date was not provided with the Standards, as is usually the case, it means the Standards were operative from the date of publication. As these Standards are statutory, Licensing Authorities must have regard to the recommendations when exercising relevant functions or justify why they have departed from them and the reason for that departure.
- 7. The DfT has published the Standards as hackney carriages (taxis) and private hire vehicles are a 'high-risk environment'. For example, links between the trade and child sexual abuse and exploitation have been established in many areas of the country and other investigations continue.
- 8. It is the Police and Crime Act 2017 which 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 the harm when using these services.

9. The main focus of the Standards is on protecting children and vulnerable adults, however all passengers will benefit from the Standards.
10. A copy of the Standards can be found at Annex 1, they cover the following points:
 - Administering the Licensing Regime
 - Gathering and Sharing Information
 - Decision Making
 - Driver Licensing
 - Vehicle Licensing
 - Private Hire Vehicle Operator Licensing
 - Enforcing the Licensing Regime
11. The Council already implement a number of the requirements within the Standards in the existing Taxi Licensing Policy (the Policy) and licence conditions, further information is provided within the Analysis below.
12. The Council's current Policy is available on the website, link provided below.

Consultation

13. The DfT formally consulted on the Standards from 12 February to 22 April 2019. The consultation document was entitled 'Taxi and Private Hire Vehicles Licensing: Protecting Users – Consultation on Statutory Guidance for Licensing Authorities'. York's Hackney Carriage and Private Hire Associations were made aware of the DfT consultation.
14. This report is seeking permission to consult on making changes to the Taxi Licensing Policy with a view to potentially incorporating the recommendations in the Standards. All holders of driver, vehicle and operators licences will be consulted as well as stake holders and the public.
15. It is proposed that the following recommendations within the Standards form part of the consultation:
 - a) DBS Update Service
 - b) Licensee self-reporting (arrest and release, charge or conviction)
 - c) National register of taxi and private hire vehicle driver licence refusals and revocations – 'NR3'

- d) Basic disclosure checks on vehicle proprietors
- e) CCTV
- f) Use of passenger carrying vehicles (PCV) licensed drivers

16. The consultation could also be used to help Members determine whether additional changes, outside the scope of the Standards, are appropriate, for example further consultation on the environmental standards, age limit of taxis, vehicle colour, signage, tinted windows and vehicle testing standards.

Options

17. Option 1

- i) Ask Officers to undertake a formal public consultation with regards to the recommendation from the DfT Statutory Taxi and Private Hire Vehicle Standards as detailed at paragraph 15 of the report and other changes to the Policy. Bringing the results of the consultation back to this Committee.
- ii) Ask Officers to also undertake a formal public consultation with regards to additional changes to the Taxi Licensing Policy, outside the scope of the Standards.
- iii) Ask Officers to issue private hire operators licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

18. Option 2

- i) Ask Officers to undertake a formal public consultation with regards to the recommendation from the DfT Statutory Taxi and Private Hire Vehicle Standards as detailed at paragraph 15 of the report and other changes to the Policy. Bringing the results of the consultation back to this Committee.
- ii) Determine that a public consultation with regards to additional changes to the Taxi Licensing Policy is not required at this time.
- iii) Ask Officers to issue private hire operators licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

19. Option 3

- i) Determine that further formal public consultation is not required, giving reason why. Ask Officer to amend the Taxi Licensing Policy to bring it in line with the requirements of the DfT Statutory Taxi and Private Hire Vehicle Standards. Bring the amendment Policy back to this Committee to make recommendation to the Full Council.
- ii) Ask Officers to issue private hire operators licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

Analysis

Administering the Licensing Regime

20. Licensing Policies – as recommended in the Standards, the Council has published a cohesive Policy, which is available on the website. The Policy includes matters such as the licensing process, suitability of applicants and drivers as ‘fit and proper’ persons, licence conditions and vehicle standards. The Policy was published in January 2017 and was amended in 2019. The Council’s Policy is currently reviewed in line with requirements to undertake an unmet demand survey, once every three years, the Standards recommend that the Policy is reviewed five yearly.
21. Duration of Licences – as recommended in the Standards, North Yorkshire Police (NYP) use their powers under Common Law Police Discourse to notify the Council if they believe a licensed driver is a risk to the travelling public. Following receipt of this information the Council determines if the driver remains a fit and proper person to hold a drivers licence.
22. Duration of Licences – as recommended in the Standards, in line with the requirements of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) the Council issues driver licences for three years and private hire operators licences for five years, unless there are grounds to issue the licence for a lesser period. Vehicle licences are issued for one year.
23. Whistleblowing – as recommended in the Standards, the Council has a whistleblowing policy that is available to all staff on the intranet.

24. Consultation at the local level – as recommended in the Standards, prior to implementation, the Council consulted the licence trade, stakeholders and public with regards to the content of the Policy and any reviews. This included writing to the Hackney Carriage and Private Hire Associations and all driver, vehicle and operator licence holders. Where possible consultations are done online.
25. Consultation at the local level – as recommended in the Standards, the Council has a joint working relationship with the five West Yorkshire Taxi Licensing Authorities, through this working relationship we are aligning Policies where possible. The council also has a close working relationship with the North Yorkshire Authorities, sharing best practice and Policy decisions.
26. Changing licensing policy and requirements – the Standards recommend that any changes to licensing requirements should be followed by a review of the licences already issued. As recommended in the Standards, the Council always includes a lead in time with regards to changes to the Policy and/or licence conditions. Furthermore, as recommended in the Standards, the Council does consider each case on its own merits, with reason given when decisions are made.

Gathering and Sharing Information

27. The Disclosure and Barring Service (DBS) – ‘Taxi Licensing City of York’ is a registered body with the DBS, the Licensing Manager is the Lead Signatory with members of the Licensing Section as Countersignatories. As recommended in the Standards it is a requirement that enhanced DBS checks are undertaken on all new driver applicants, prior to being licensed, and all existing licensed drivers, at least once every three years.

The DBS Update Service

28. 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.
29. It is not currently a requirement of the Policy that new applicants and licensed drivers must subscribe to the Update Service. As this

recommendation would be an amendment to the Taxi Licensing Policy, it is proposed that this forms part of the formal public consultation.

30. Common Law Police Disclosure – NYP use their powers under Common Law Police Disclosure to notify the Council if they believe a licensed driver is a risk to the travelling public.
31. Licensee self-reporting – it is currently a requirement of the Policy that licensed drivers notify the Council in three days of any convictions (including penalty points), the Council then reviews if the driver remains fit and proper to hold a licence. The Standards recommend that the notification should be made in 48 hrs of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. As this recommendation would be an amendment to the Policy, it is proposed that this forms part of the formal public consultation.
32. Referrals to the DBS and the Police – In conjunction with the Councils Local Authority Designated Officer (LADO) and/or Police, if required, a referral is made to the DBS. Furthermore, if the Licensing Section receives relevant information relating to a licensed driver with regards to a child or vulnerable adult, officers always liaise with the LADO and/or police, and the Councils school / adult transports contract section if the drivers undertakes contract work.
33. Working with the Police – Licensing Officers have a good working relationship with the Police, sharing information as and when required, in line with the requirements of data protection. Driver licences have been suspended or revoked in relation to information received from the Police. Joint, ad-hoc, operations take place throughout the year with regards to road side vehicle safety checks, usually also including officers for the DVSA.
34. Sharing licensing information with other licensing authorities – as recommended in the Standards, it is currently a requirement of the application process that a new applicant must disclose if they hold or have previously held a licence with another authority, and if they have had an application for a licence refused or a licence revoked or suspended by any other licensing authority. Application forms advise that it may be a criminal offence to make a false statement or omit to provide the information requested.

35. Sharing licensing information with other licensing authorities – the Standards recommend that licensing authority should use tools such as ‘NR3’ to share information. The Council are registered with the National Anti-Fraud Network (NAFN) (for work undertaken by Trading Standards Officers) who have developed the national register of taxi and private hire vehicle driver licence refusals and revocations, known as ‘NR3’, the Council do not currently use the national register. As this recommendation would be an amendment to the Policy, it is proposed that this forms part of the formal public consultation. Also, if the Policy is amended, service level agreements would need to be in place between NAFN and the Council with regards to the use of this register.
36. Multi-agency Safeguarding Hub (MASH) – as recommended in the Standards, the Council operators a MASH, Licensing Officers attend a meeting of the MASH if matters relating to a licensed driver(s) and/or a licensed operator(s) are to be discussed. Driver licenses have been suspended or revoked in relation to information received from the LADO and/or Police through the sharing of necessary and relevant information.
37. Complaints against licensees – as recommended in the Standards, the Council logs complaints against licensed drivers on their driver record. Complaints are monitored by the Licensing Enforcement Officer and brought to the attention of the Licensing Manager if required, for example due to the nature of the complaint, the number of complaints or a pattern in the type of complaints. The Licensing Manager will then determine the appropriate course of action.
38. Complaints against licensees – depending on the nature of complaint the Council contacts the driver if adequate information is available. If the complaint is upheld, verbal and/or written advice may be given, a written warning may be issued, the licence may be suspended or revoked and in some cases court action may also follow. At any time during the duration of the licence it can be determined that a licensed driver is not a fit and proper person to hold a licence. Information with regards to how to make a complaint is available on the Council’s website.
39. Overseas convictions – as recommended in the Standards, it is a requirement that applicants that have resided outside of the UK provide a criminal record check from the country/countries in which they have previously resided (since the age of 18), this document must be provided in English. If a criminal record check or Certificate of Good

Conduct cannot be provided, the applicant must provide a signed declaration detailing the attempts made to obtain a check. The declaration must also state whether they have been found guilty or have been convicted or charged with any offences against the law in any country. This declaration must be signed in the presence of a solicitor and be duly countersigned, it must also be stamped by the solicitor.

Decision Making

40. Administration of the licensing framework – as recommended in the Standards, the Council has a scheme of delegation in place for setting policies, determining licence applications, reviews and renewals, and the setting of and attachment of conditions when considered appropriate.
41. Training decision makers – as recommended in the Standard, Officers who determine licence applications are experienced and trained. Public safety is paramount with regards to all decisions made. Members of this Committee have received basic training on taxi licensing matters.
42. The regulatory structure – it is a recommendation of the Standards 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 the larger Regulatory Committee or Board. The Council does have a Licensing and Regulatory Committee (this Committee) that is convened at periodic intervals to consider/determine taxi licensing matters, such as licensing policy/conditions, and when it is in the public interest to do so determine grants, renewals, suspension or revocations of licences. At this time the Councils constitution and scheme of delegation are being reviewed. The recommendation within the Standards will be taken into consideration as part of that review. The decision making structure for taxi licensing matters will be brought to this Committee in due course.
43. Fit and proper test – the Council is aware of and applies the fit and proper person test.
44. Criminal convictions and rehabilitation – as recommended in the Standards the Council has a policy in place to 'determine the suitability of applicants and licensees as drivers in taxi and private hire licensing'. This policy is taken into consideration with regards to convictions

whether they are declared by the applicant/driver or identified through the criminal record check process.

Driver Licensing

45. Criminality checks for drivers – as covered in paragraphs 27.
46. Safeguarding awareness – as recommended in the Standards, it is a requirement of the Policy that new driver applicants have to undertake a ‘Safeguarding and Knowledge’ training day and pass a test. This training covers safeguarding in relation to children and vulnerable adults, including how to raise concerns. This training also covers ‘County Lines’ exploitation. It is also a requirement that licensed drivers undertaken a half day refresher training course every three years on safeguarding matters.
47. Language proficiency – as recommended in the Standards, it is a requirement of the Policy that oral and written English language skills are tested, this is currently done as part of the ‘Safeguarding and Knowledge’ training day and test. However, as part of our joint work with the West Yorkshire Authorities and earlier recommendations of this Committee, a training provider will be sought to deliver training and testing in oral and written English language skills.

Vehicle Licensing

48. Criminality checks for vehicle proprietors – it is recommended in the Standards that Licensing Authorities should require a basic disclosure from the DBS and that a check is undertaken annually on vehicle proprietors. The Council does not require basic disclosure checks for vehicle proprietors, although a number of proprietors are also licensed drivers and therefore undertake an enhanced DBS check at least once every three years as part of the requirements for drivers. As this recommendation would be an amendment to the Policy, it is proposed that this forms part of the formal public consultation.
49. In-vehicle visual and audio recording – CCTV – the installation of CCTV is covered within the Policy (Security Measures). The installation is voluntary and all costs are borne by the vehicle licence proprietor. As the installation is a modification of the vehicle, it must be approved by the Council to make sure it is installed safely and securely. Vehicle licence proprietors and drivers must also comply with the requirements of the Information Commissioners Office. As recommended in the

Standards it is proposed that this forms part of the formal public consultation.

50. Stretched Limousines – as recommended in the Standards, the licensing of stretch limousines is covered in the Policy. At this time the Council do not licence any stretch limousines, if an application was received it would be considered on its own merits in line with the executive vehicle policy. Arrangements may need to be made to inspect such vehicles due to their length.

Private Hire Vehicle Operator Licensing

51. As recommended in the Standards, it is a requirement of the Policy that private hire operator applicants and licence holders undertake a basic disclosure from the DBS prior to the grant and renewal of a licence, unless they are also licensed drivers and have therefore undertaken an enhanced DBS check at least once every three years.

52. Bookings and dispatch staff – it is not a requirement of the existing Policy for licensed operators:

- to keep a register of all staff that will take bookings or dispatch vehicles,
- to evidence that they have had sight of a Basic DBS check on individuals listed in the register,
- to ensure that outsource bookings have comparable protections applied by the company to which they outsource,
- to have policies on employing ex-offenders

As implementing such a recommendation would be an amendment to the Policy, it is proposed that this forms part of the formal public consultation.

53. Record keeping – as recommended in the Standards, it is a requirement of the Policy that licensed operators keep records for a set time period.
54. Use of passenger carrying vehicles (PCV) licensed drivers – it is recommended in the Standards that ‘the use of a driver who holds a PCV licence’ and ‘the use of a public service vehicle (PSV)’ (vehicles that carry more than 8 passengers) 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. As this recommendation would be an amendment to the Taxi

Licensing Policy, it is proposed that this forms part of the formal public consultation.

55. As detailed in the recommendation in Option 1 at paragraph 19, if, following the formal consultation, it is determined to implement the requirement of the Standards detailed in paragraphs 55 and 57, it will require the Policy to be duly amended with regards to private hire operator licence conditions. As operator licences can be issued for a maximum period of five years, the recommendation within Option 1 is that operator licences are granted or renewed for a maximum period of 12 months until such time that the Policy is reviewed, to allow any Policy changes to become conditions of licence the following year (and not wait for five years to introduce).

Enforcing the Licensing Regime

56. Joint authorisation of enforcement officers – as recommended in the Standards, the Council has a joint working relationship in place with the five West Yorkshire Authorities, this includes joint authorisation regards to enforcement activities.
57. Setting expectation and monitoring – as recommended in the Standards, the Council provides guidance to all new driver applicants, this is available on the Council's website or in hard copy. This guidance provides details of the application requirements/process, all licence conditions and links to the Taxi Licensing Policy. Similar guidance is provided to licence holders prior to the renewal of licences.
58. Suspension and revocation of driver licences – as recommended in the Standards, upon receipt of relevant information regarding a licensed driver Council Officers consider the options available to them before determining the appropriate course of action. Before a decision is made all evidence is considered and if possible the drivers is given the opportunity to state their case, if they wish. Licences have been reissued following a revocation if new information is available. If a suspension is issued for a minor issue, on occasion this can be addressed through additional training.

Council Priorities

59. The taxi licensing functions undertaken by the Council are statutory, supporting the new and existing trade, as well as local residents and

visitors. Through these functions, the policy supports the Council's Plan of a good quality of life for everyone.

Implications

60. The direct implications arising from this report are:

- (a) **Financial** – There are no financial implications.
- (b) **Human Resources (HR)** - There are no HR implications.
- (c) **Equalities** – There are no equalities implications. If a formal public consultation is approved by this Committee, an equalities impact assessment will be undertaken prior to bringing the results of the consultation and reviewed Taxi Licensing Policy back to this Committee.
- (d) **Legal** – The Standards are applied to local authorities having regard to the Policy and Crime Act 2017, which enables the Secretary of State for Transport to issue statutory guidance to local authorities as to how hackney carriage and private hire licensing should be undertaken to protect children and vulnerable adults when using taxis and private hire vehicles. The statutory guidance states at 1.3 that:

“The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.”

The guidance also states at 2.6, 2.7 and 2.8: (wording highlighted in bold type is highlighted in the Standards, not by the author of this report)

*“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 regards” is more than having a cursory glance at a document before arriving at a preconceived conclusion”.*

*“Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate to 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.

“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 justifications could be detrimental to the authority’s defence.”

The legal duty is a “have regard” duty. This means that the Licensing Authority should not take the standards into account when exercising any relevant functions. If the Authority fails to do this, without giving compelling reasons, then its decisions could be subject to legal challenge.

The Standards themselves have the legal status of guidance and therefore do not bind the decision maker.

- (e) **Crime and Disorder** – There are no crime and disorder implications.
- (f) **Information Technology (IT)** - There are no IT implications.
- (g) **Property** - There are no property implications.
- (h) **Other** - There are no other implications.

Risk Management

61. There are no known risks associated with this report.

Contact Details

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Assistant Director – Planning and Public Protection

**Report
Approved**



Date 11/02/21

Specialist Implications Officer(s)

Wards Affected:

All



For further information please contact the author of the report

Background papers

Taxi Licensing Policy

https://www.york.gov.uk/downloads/file/9715/taxi_licensing_policy

Annexes

Annex 1 – DfT Statutory Taxi and Private Hire Vehicle Standards