

REGULATORY AND GENERAL PURPOSES COMMITTEE**23 MARCH 2021**

REPORT TITLE	DEPARTMENT FOR TRANSPORT – STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS
REPORT OF	DIRECTOR OF LAW AND GOVERNANCE

REPORT SUMMARY

The purpose of this report is to advise the Committee of the publication of the Department for Transport Statutory Taxi and Private Hire Vehicle Standards document attached in Appendix 1 of this report and to seek approval of proposed actions in response to its recommendations.

This matter affects all Wards within the Borough.

RECOMMENDATIONS

It is recommended that the Regulatory and General Purposes Committee:-

1. Approve the proposed actions as set out in Table A attached in Appendix 2 of this report which provides a response to the recommendations contained within the Statutory Taxi and Private Hire Vehicle Standards document;
2. Approve the proposed revisions to the Council's Statement of Policy and Guidelines relating to the relevance of convictions when considering applications for Hackney Carriage and Private Hire Licences attached in Appendix 3 of this report; and
3. Authorise the Licensing Manager to amend current conditions and criteria in accordance with the recommendations set out in the Statutory Taxi and Private Hire Vehicle Standards document and undertake consultation on the adoption of the matters set out at paragraph 3.14 of this report.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The Department for Transport expects all Licensing Authorities to implement the recommendations set out in the Statutory Taxi and Private Hire Vehicle Standards (the document) unless there is compelling local reason not to do so.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Licensing Authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of relevant law. Therefore the council may determine that none or only part of the recommendations set out in the Statutory Taxi and Private Hire Vehicle Standards should be adopted. However, there is a risk that these standards would be cited 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.

3.0 BACKGROUND INFORMATION

- 3.1 The Policing and Crime Act 2017 (the Act) enables the Secretary of State for Transport to issue Statutory Guidance on exercising Taxi and Private Hire licensing functions to protect children and vulnerable adults from harm when using these services. Section 177(4) of the Act places a statutory duty upon any public authority which has licensing functions under taxi and private hire vehicle legislation to have regard to any such guidance. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes.
- 3.2 On 20 March 2019 a report was presented to this Committee which noted the Government's intention to introduce new Statutory Standards for Taxi Licensing and the Licensing Manager was given delegated authority to provide a response to the consultation in respect of what were at the time draft Taxi and Private Hire Vehicle Standards.
- 3.3 In accordance with the provisions within the Act, the Department for Transport (DfT) published the final Statutory Taxi and Private Hire Vehicle Standards in July 2020. This document is attached in Appendix 1 to this report.
- 3.4 The Statutory Taxi and Private Hire Vehicle Standards have been issued in light of evidence that taxis and private hire vehicles are viewed as a high-risk environment, specifically in terms of risks to passengers. It is reported in the document that this can be seen in the 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 are an ongoing issue.

- 3.5 The standards within the document have been developed to address the safeguarding of the public, in particular children and vulnerable adults. It is emphasised within the document that the importance of considering these standards cannot be overstated. The recommendations set out in the document are the result of detailed discussion with the trade, regulators and safety campaign groups.
- 3.6 It is a requirement that all licensing authorities should publish their consideration of the measures contained in the 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).
- 3.7 The Licensing Manager has reviewed the Licensing Authority's current conditions and criteria for licensing Hackney Carriage and Private Hire Drivers and Vehicles as well as Private Hire Operators against the DfT's Standards and the result of this review is set out in Table A attached in Appendix 2 to this report. Alongside each of the DfT's recommendations is a summary of the Licensing Authority's current position and any proposed action in response to the DfT's recommendation. Where possible an estimated timescale to complete the proposed action has been given.
- 3.8 A significant number of the DfT's Standards are already in place, due to work completed and policies already introduced by the Licensing Authority. Recommendations contained within the document which are not currently in place and which will require addressing include the following:
- A single and cohesive Taxi and Private Hire Licensing policy document;
 - The requirement for a Register to be kept by Private Hire Operators of their booking / despatch staff. Basic DBS checks to be made of such staff by the operators and prescriptive records to be maintained by Operators;
 - Oral and written English Language proficiency tests for drivers;
 - Reduction of the time period for notification of the investigation into offences by licence-holders from 72 hours to 48 hours;
 - Mandatory Basic DBS checks for Private Hire and Hackney Carriage Vehicle proprietors;
 - Mandatory annual Basic DBS checks for Private Hire Operator licence holders who do not hold a Private Hire or Hackney Carriage Driver Licence;
 - A requirement for Private Hire Operators to advise the Licensing Authority of any change in Directors or Partners of the business
 - Mandatory subscription by driver licence holders to the Disclosure and Barring Service (DBS) Update service;

- Twice yearly Disclosure and Barring Service (DBS) checks for licensed drivers;
- A stricter policy in respect of the consideration of previous convictions held by applicants for Hackney Carriage and Private Hire Driver Licences which would require applicants to show longer conviction-free periods than the Council currently requires;
- The responsibility of the Licensing Authority to refer individuals to the DBS for consideration to be added to the barred lists in certain circumstances, e.g. where it is believed the individual presents a risk of harm to a child and/or vulnerable adult;
- Multi-agency working between the Licensing Authority, the Police and the MASH team;
- Introduction of CCTV in licensed vehicles; and
- The authorisation of enforcement officers in other adjoining authorities

3.9 The purpose of the Statutory Taxi and Private Hire Vehicle Standards is to offer greater consistency across the country particularly on safeguarding children and vulnerable adults. Whilst some of the proposed actions will take time to deliver, as set out in Table A in Appendix 2 of this report, due to the need to consult with interested parties, there are others which can be implemented without the need for consultation, subject to the Committee's approval.

3.10 The Committee is invited to approve the revised Convictions Policy set out in Appendix 3 of this report. The amendments to this Policy are highlighted in bold and follow the DfT's recommendations. Table B attached in Appendix 4 of this report provides details of the current time periods that should elapse following a conviction before a licence will be granted alongside the proposed timescales. If approved, it is proposed that the revised Convictions Policy will replace the current policy with immediate effect.

3.11 The Committee is also being asked to approve the following amendments to the current licensing criteria and conditions where they do not match the DfT's Standards:

- The time period for notification of any investigation into offences by licence-holders to be amended to 48 hours;
- Oral and written English Language proficiency tests to be a requirement for applicants for Private Hire and Hackney Carriage Driver Licences;

- Authorisation be given to the Licensing Manager to refer individuals to the DBS for consideration to be added to the barred lists in certain circumstances; and
- Mandatory annual basic DBS checks be a requirement for Private Hire and Hackney Carriage Vehicle Proprietors and Operators who do not hold a Private Hire or Hackney Carriage Driver licence. If the applicant is a limited company this will apply to all individuals listed in an executive position on the Companies House Public Register.

3.12 If approved, it is proposed that the revised criteria or amended conditions will have effect, in respect of new applicants, 28 days from the date of approval, in respect of current licence holders, within 28 days of the notification of approval.

3.13 The recommendations relating to Private Hire Operator conditions contained within the Statutory Taxis and Private Hire vehicle Standards have been consulted upon and are subject to a separate report to this Committee.

3.14 The Committee is requested to authorise the Licensing Manager to undertake consultation in respect of the following recommendations contained within the Statutory Taxis and Private Hire Vehicle Standards document;

- Mandatory subscription to the Disclosure and Barring Service (DBS) Update service;
- Twice yearly Disclosure and Barring Service (DBS) checks for licensed drivers; and
- The introduction of CCTV in licensed vehicles

4.0 FINANCIAL IMPLICATIONS

4.1 There will be cost implications to undertaking consultation in respect of some of the recommendations within the Statutory Taxis and Private Hire Vehicles Standards. These costs are not available at this time. The costs of administering the licensing regime are recovered by the licensing fees charged to the Taxi and Private Hire trades.

5.0 LEGAL IMPLICATIONS

5.1 The Statutory Taxis and Private Hire Vehicles Standards have been issued under the Policing and Crime Act 2017 and came into effect on 20 July 2020.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

6.1 The implementation of the recommendations within the Statutory Taxis and Private Hire Vehicle Standards will impact on the staffing resource within the Licensing service. This will be kept under review. The costs of administering the licensing regime are recovered by the licensing fees charged to the Taxi and Private Hire trades.

7.0 RELEVANT RISKS

- 7.1 The Department for Transport expects the recommendations within the Statutory Taxis and Private Hire Vehicle Standards to be implemented unless there is a compelling local reason not to, there is a risk that the Council could be open to challenge if the new statutory guidance is not followed without sufficient justification. Adhering to the new statutory guidance will mitigate against any challenge to the Council's licensing regime. Failure to adopt the recommendations without good reason could put children and vulnerable adults at risk of harm should the Council not have in place a robust regime of testing the fitness and propriety of those working in the Hackney Carriage and Private Hire industry.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 This report requests the Committee authorise the Licensing Manager to undertake consultation on the adoption of certain recommendations contained within the Statutory Taxis and Private Hire Vehicle Standards where necessary.

9.0 EQUALITY IMPLICATIONS

- 9.1 The Statutory Taxis and Private Hire Vehicle Standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area. The adoption of recommendations made in this document will therefore have a positive impact on equality and diversity specifically for vulnerable individuals and children.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 Whilst Private Hire Vehicles contribute to harmful emissions including particulate matter, hydrocarbons and carbon monoxide which can be harmful to health there are no specific or anticipated environmental and climate implications that arise as a result of this report.

REPORT AUTHOR: Margaret O'Donnell
Licensing Manager
telephone: (0151) 691 8606
email: margaretodonnell@wirral.gov.uk

APPENDICES

- Appendix 1 Statutory Taxis and Private Hire Vehicle Standards
- Appendix 2 Table A – Table setting out comparison between Standards and local policy inclusive of proposed actions
- Appendix 3 Revised Statement of Policy and Guidelines relating to the relevance of convictions when considering applications for Hackney Carriage and Private Hire Licences
- Appendix 4 Table B - Table setting out the proposed changes made to the existing Statement of Policy and Guidelines relating to the relevance of convictions when considering applications for Hackney Carriage and Private Hire Licences

BACKGROUND PAPERS

Letter from the Secretary of State issued with the Statutory Taxi and Private Hire Vehicle Standards

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Licensing Health and Safety and General Purposes Committee	20 March 2019