

GENERAL PURPOSES COMMITTEE

12 NOVEMBER 2020

NATIONAL STATUTORY STANDARDS FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE PASSENGERS

1.0 Purpose of Report

1.1 To review new statutory guidance relating to hackney carriage and private hire vehicle passengers and to highlight the potential changes needed to the Councils' Taxi Policy to comply with the guidance.

2.0 Background

2.1 In September Committee considered a report on the new statutory standards for the taxi and private hire vehicle sector across England and Wales. It was agreed that a further report would be submitted outlining the detail of the new guidelines and the changes need to the Council's policy to comply with the new standards.

3.0 Statutory Guidance for Taxi & Private Hire Vehicle Standards

3.1 The document sets out a framework of policies that, under section 177(4) of the Policing and Crime Act 2017 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. The introduction to the Statutory guidance make the following comment ' **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.

3.2 Officers within Licensing have studied the new standards and have made a comparison with the current NSDC Taxi & Private Hire Vehicle Policy. The key headings from the statutory guidance are set out below with the position statement from Officers.

3.3 Licensing Policies

Guidance 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. Report by Dame Louise Casey CB of February 2015 on safeguarding failings.

Response The Council has a published policy that includes all the above.

Guidance 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.

Response A formal 5 year review process will be implemented.

3.4 Duration of Licences

Guidance 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.

Response The Council's Policy will be amended to include the wording set out in the guidance.

3.5 Consultation at the Local Level

Guidance 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.

Response Any changes to the Policy are always consulted on with the taxi trade. The scope of future consultation will be expanded.

3.6 Changing Licensing Policy and Requirements

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

Response Any changes to policy that may have an impact on existing licence holders will be subject to ratification by GP committee and the consequences outlined. All decisions relating to individual licences are recorded.

3.7 Gathering and Sharing Information

Guidance 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.

Response All sources of information are used to inform decisions.

Guidance 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.

Response A more formal approach to consultation with the Police will be developed.

- Guidance 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.
- Response This procedure is used by the Council. It will be formally added to the Policy
- Guidance 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.
- Response The Council's application process seeks this information.
- Guidance 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.
- Response The Council uses the NR3 tool to register its revocations.
- Guidance 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).
- Response Staff have training on making referrals. There is a standing item on the Corporate Safeguarding Group for taxi issues.
- Guidance All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.
- Response All complaints against licence holders are recorded on the Business Unit's case management database. Regular reports are brought to committee on enforcement activity.
- Guidance 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.
- Response This is already in the Council's Policy.

3.8 Training Decision Makers

- Guidance All individuals that determine whether a licence is issued should be required to undertake sufficient training.
- Response Training is provided to all Members of the Committee and they are not permitted to sit on a Hearing if they are not trained. The Policy will be amended to make this clear.

3.9 The Regulatory Structure

Guidance 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.

Response The Council's Hackney Carriage and Private Hire Sub-Committee was established to serve this purpose.

Guidance 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.

Response The Council's Urgency procedure with delegation to Chief Officers is used for this.

3.10 Criminal Convictions and Rehabilitation

Guidance 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.

Response The Council has, as part of its policy, a scheme for consideration of criminal convictions. The Statutory Guidance suggested that each authority should use the assessment of previous convictions that is an annex to the guidance. The current convictions scheme should be replaced by that annexed to the guidance.

3.11 Criminality Checks for Drivers

Guidance 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

Response This is Council policy

Guidance All licensed drivers should also be required to evidence continuous registration with the DBS update service.

Response This is Council policy

Guidance Drivers should be subject to a DBS check every 6 months

Response The Council's current policy is to check every 12 months. The policy will be amended to 6 months.

Guidance 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.

Response This will be made explicit in the Policy.

3.12 Safeguarding Awareness

Guidance 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.

Response This is a part of the Council's Policy.

3.13 Language Proficiency

Guidance A licensing authority's test of a driver's proficiency should cover both oral and written English language skills.

Response Oral proficiency is not part of the current application process. An amendment to the policy will be made to develop a spoken English proficiency assessments.

3.14 Criminality Checks for Vehicle Proprietors

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

Response An amendment to the policy will be required.

Guidance 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.

Response This will require an amendment to the policy

3.15 In-vehicle Visual and Audio Recording – CCTV

Guidance 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.

Response Formal consultation will take place next year.

3.16 Criminality Checks for Private Hire Vehicle Operators

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

Response A change to the policy will be required

- Guidance 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.
- Response A change to the policy will be required

3.17 Booking and Dispatch staff

- Guidance 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.
- Response A change to the policy will be required.

3.18 Joint Authorisation of Enforcement Officers

- Guidance 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.
- Response This is in place for Nottinghamshire local authorities.

4.0 Proposals

4.1 The new guidance will require amendments of the current NSDC Taxi & Private Hire Vehicle Policy to ensure that the existing policy meets all the requirement of the new statutory guidance.

4.2 It is proposed that the NSDC policy is updated and amended to include the specific statutory guidance relating to:

Referrals to DBS
Training
6 monthly DBS checks and barred lists
Oral proficiency in English
DBS checks for proprietors and operators
Requirement for register of dispatch staff
Criminal records check

4.3 Once the amendments have been made the draft amended policy will be brought to Committee for formal adoption.

5.0 Financial Implications (FIN20-21/8501)

5.1 There are no direct financial implications arising from this report.

6.0 Digital Implications

6.1 None from this report

7.0 RECOMMENDATIONS that:

- (a) Members note the detail of new statutory guidance relating to taxis and private hire vehicles and the implications for the Council's current policy;**
- (b) Members endorse that the elements of the policy set out in paragraph 4.2 should be amended; and**
- (c) the amended policy be brought back to Committee for approval.**

Background Papers

NSDC Taxi Policy

Statutory guidance relating to hackney carriage and private hire vehicle passengers – Dept. for Transport 2020

For further information please contact Alan Batty on extension 5467.

Matthew Finch

Director – Communities & Environment