

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**PUBLIC PROTECTION COMMITTEE**

**Date 19<sup>th</sup> March 2019**

**1. Department for Transport Statutory Guidance for Local Authorities and Central Government Comments on Reforming Taxi Licensing Legislation**

**Submitted by:                      Head of Environmental Health Services**

**Portfolio:                              Finance & Resources**

**Ward(s) affected:                      All**

**Purpose of the Report**

To inform the committee of the:

1. Report and recommendations made by the Task and Finish Group on Taxi and Private Hire Vehicle Licensing;
2. Central Government response to that report and their recommendations; and
3. Department for Transport proposed statutory guidance for Licensing Authorities.

**Recommendations**

**To note the contents of each document**

**1. Background**

- 1.1 The Policing and Crime Act 2017 (PCA17) was enacted in January 2017. Section 177 provided that the Secretary of State may issue guidance for local authorities as to how to exercise their functions under taxi and private hire legislation.
- 1.2 In 2017 the Rt. Hon. John Hayes CBE MP commissioned a Task and Finish Group (the Group) to review taxi and private hire licensing and submit a report to the Secretary of State for Transport, with recommendations as to how best to reform this sector as '*in his view the current regulatory regime for the taxi and private hire vehicle (PHV) sector is no longer fit for purpose*'. The group was brought together in July 2017 and in September 2018 published their final report and recommendations. A copy of that report is attached as Appendix A.

**2. Issues**

- 2.1 In total the Group published 34 separate recommendations that covered areas including:
  - Legislation should be reviewed urgently to be brought up to date;
  - National minimum standards for drivers, vehicle and operators;
  - Officers should be able to enforce against vehicles and drivers licensed by another authority;
  - Department for Transport (DfT) should urgently update their best practice guidance and consult upon statutory guidance;
  - Creating definitions of 'plying for hire' and 'pre-booked'

- All taxi and PHV journeys should start and/or end in the area in which the driver, vehicle and operator are licensed;
  - CCTV should be mandatory in all taxi and PHV's;
  - All licensing authorities should use a national database to record refused and revoked taxi driver licences;
  - All individuals involved in the licensing decision making process (officials and councillors) must be obliged to undertake appropriate training;
  - All taxi and PHV drivers should have to undergo disability awareness training;
  - All taxi and PHV drivers must be able to communicate in English orally and in writing to a standard that is required for them to fulfil their duties;
  - Licensing Authorities that had not already done so should set up a list of Wheelchair Accessible Vehicles (WAVs) under s167 Equality Act 2010;
- 2.2 The full list of recommendations is contained at pages 7-12 of Appendix A, and the Group's reasoning for each recommendation can be found at pages 16-48.
- 2.3 On 12<sup>th</sup> February 2019 the Government published their response to the Group's report. The response it attached as Appendix B. The response set out a broad summary of the Government's position, and the actions it proposes to take. It then has a point by point response to each of the 34 recommendations.
- 2.4 In general the Government agree that new legislation is required to create national minimum standards for taxi licensing, create a national database and allow officers to enforce against any licensed driver and vehicle. They also agreed that local authorities make better use of existing powers to introduce mandatory CCTV in vehicles, and training requirements for drivers in relation to CSE/Safeguarding and Disability Awareness. Government agree that licensing authorities should require that all drivers to be able to communicate effectively in English.
- 2.5 Alongside the Government response on 12<sup>th</sup> February the DfT published their proposed statutory guidance that was to be consulted upon nationally for 10 weeks. A copy of the proposed guidance and consultation survey are attached as Appendix C and D respectively. Officers will be submitting a detailed response to the Consultation prior to the last day on 22<sup>nd</sup> April 2019.
- 2.6 This will be the first time that there has ever been Statutory Guidance for Licensing Authorities with regards to Taxi Licensing. Prior to this the DfT last updated their 'Best Practice Guidance' in 2010. The proposed guidance document is comprehensive in the areas that it covers, explains that '*taxis and PHVs are a high risk environment*', and that DfT '*expects these recommendations to be implemented unless there is compelling local reason not to*'. There is 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 Disclosures (CLPD).
- 2.7 The specific areas covered in the proposals are:
- Licensing Policy – Each policy should include policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards, and DfT recommends that licensing authorities regularly review them;

- Fit and Proper test – DfT suggest a question that decision makers should ask themselves, clarifies that decisions are made on the balance of probabilities and applicant's should not be given the benefit of the doubt;
- Administration of the licensing framework – There is a statement that those involved in decision making are suitably trained and the way licensing functions should be carried out;
- Whistleblowing – There is a statement that local authorities must have a whistleblowing policy and that the mistakes made by Council's such as Rotherham and South Ribble must not be repeated.
- Implementing changes to licensing policy and requirements – There is a statement that once a policy has been changed it should be applied to current licence holders in the same way it would apply to new applicants, although a pragmatic approach may be required if there is a requirement to undergo a training course, qualification etc;
- The Disclosure and Barring Service (DBS) – Licensing authorities should request Barring checks on all drivers;
- DBS update service – Licensing authorities should make use of the service and consider routinely checking on licence holders (e.g. every 6 months). 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. That 'other workforce' and 'taxi licensing' should always be used;
- Licensee self-reporting – it should be a requirement that licence holders notify the Council within 48 hours of an arrest and release, charge or conviction of any motoring offence, or any offence involving dishonesty, indecency or violence;
- Referrals to DBS and the Police – that licensing authorities should make a referral to the DBS if a decision has been taken to revoke/refuse a licence and the individual may present a harm to a child or vulnerable adult;
- Overseas convictions - Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process;
- Conviction policy - 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. Annex A, provides the Department's recommendations on this issue. The time periods should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance;
- CLPD – DfT strongly recommend that licensing authorities maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used;
- Other information - It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. 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;
- Multi-agency Safeguarding Hub (MASH) – DfT recommends all licensing authorities should establish a means to facilitate the objectives of a MASH;
- Complaints against licensees - Licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that **must** be available on their website and displayed in licensed vehicles;
- Duration of licences – Drivers are normally licensed for 3 years and Operators are normally licensed for 5 years. Any shorter duration should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case;

- Safeguarding awareness - DfT recommend that licensing authorities provide safeguarding advice and guidance to the trade and that taxi and PHV drivers are required to undertake safeguarding training;
- Other forms of exploitation – ‘County lines’ drug trafficking - Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation;
- Language proficiency - Authorities should consider whether an applicant would have any problems in communicating with customers because of language difficulties. Licensing authorities have the freedom to specify the level of proficiency, but it is recommended to cover both oral and written English language skills necessary to fulfil their duties, including in emergency and other challenging situations;
- Enforcement - 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. Together with increased clarity for the public on complaining, these measures 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;
- Suspension and revocation of driver licences – That similarly to the decision as to whether to grant a licence these decision should be taken on the balance of probabilities, and based on the evidence available to the Council at the time.
- Criminal record checks for PHV operators - It is important that licensing authorities are assured that the operators they license pose no threat to the public and have no links to serious criminal activity. The recommendation is that licensing authorities request a Basic Disclosure to assess their fitness and propriety.
- PHV Operators – ancillary staff – Licensing authorities should require operators to ensure each member of staff has had a Basic Disclosure, and to keep a record of having done so.
- PHV Operators – Use of passenger carrying vehicles (PCV) licensed drivers – Licensing Authorities should make it a condition of a PHV operator licence that PCV drivers can not undertake a private hire booking.
- PHV Operators – record keeping – Current legislation mandates that certain records must be kept. DfT recommend that further specific information is recorded.
- In-vehicle visual and audio recording – CCTV – DfT recognise that CCTV can provide additional deterrence to prevent potential harm to passengers and drivers and that the use of CCTV can provide a safer environment for the benefit of those individuals. However, 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 would require an appropriately strong justification and regular review.
- Stretched Limousines - 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.
- Consultation at a local level - It is good practice for licensing authorities to consult on any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV 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. Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and PHV sector in neighbouring areas; it would therefore be good practice to engage with these to identify any concerns and issue that might arise from a proposed change. Many

areas convene regional officer consultation groups or, more formally, councillor liaison meetings; the Department considers this approach to be good practice.

3. **Options Considered** (if any)

3.1 That Members note the contents of each of the below documents:

1. Report and recommendations made by the Task and Finish Group on Taxi and Private Hire Vehicle Licensing (Appendix A);
2. Central Government response to that report and their recommendations (Appendix B); and
3. Department for Transport proposed statutory guidance for Licensing Authorities (Appendix C).

4. **Proposal**

4.1 That Members note the contents of each of the documents.

5. **Reasons for Preferred Solution**

5.1 To ensure that the Committee are kept up to date with significant planned changes to the taxi licensing regime.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

6.1 *The Council's corporate priorities are:*

- Local services that work for local people
- Growing our people and places
- A healthy, active and safe borough
- A town centre for all

7. **Legal and Statutory Implications**

7.1 Not applicable

8. **Equality Impact Assessment**

8.1 Not applicable

9. **Financial and Resource Implications**

9.1 Not applicable

10. **Major Risks**

10.1 Not applicable

11. **Sustainability and Climate Change Implications**

11.1 Not applicable

12. **Key Decision Information**

- 12.1 Not applicable
- 13. **Earlier Cabinet/Committee Resolutions**
- 13.1 Not applicable
- 14. **List of Appendices**
- 14.1 Appendix A – Task and Finish Group Report - Taxi and Private Hire Vehicle Licensing Steps towards a safer and more robust system  
Appendix B - Government Response - Report of the Task and Finish Group on Taxi and Private Hire Vehicle Licensing - **Moving Britain Ahead**  
Appendix C – Department for Transport - **Taxi and Private Hire Vehicle Licensing: Protecting Users** - Statutory Guidance for Licensing Authorities  
Appendix D – Department for Transport - Taxi and private hire vehicle licensing: protecting users – Survey Document
- 15. **Background Papers**
- 15.1 As per the Appendices