

Licensing Applications Committee

13 July 2023



Reading
Borough Council
Working better with you

Title	Statutory Taxi and Private Hire Vehicle Standards and the Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022
Purpose of the report	To make a decision
Report status	Public report
Report author	Matthew Golledge
Lead Councillor	Councillor Ennis
Corporate priority	Thriving Communities
Recommendations	<ol style="list-style-type: none">1. That the committee note the requirements of the Statutory Taxi and Vehicle Standards and the Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 and the ongoing work to implement the measures and align current policies to the standards.2. That the updated Hackney Carriage and Private Hire Convictions Policy, as attached to the report at Appendix 2, be published for consultation with the Hackney Carriage and Private Hire Vehicle trade, and a further report be submitted to a future meeting to adopt the final policy, having taken the results of the consultation into account.

1. Executive Summary

- 1.1. Under the terms of the Policing and Crime Act 2017 ('PCA') the Department for Transport (DfT) has introduced Statutory Taxi and Private Hire Vehicle Standards for hackney carriages (taxis) and private hire vehicles (PHVs). These standards were published in July 2020.
- 1.2. As part of this review the Hackney Carriage and Private Hire Convictions Policy has been assessed and updated against the standards.
- 1.3. The Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 ('TPHVA') places a further duty on Licensing authorities to share, consider and act upon relevant information regarding safeguarding and road safety concerns about taxi and private hire drivers. Statutory guidance was issued under this Act on 27 April 2023.
- 1.4. This report sets out a proposal for the way in which these requirements are going to be implemented by the Council.

2. Policy Context

- 2.1. The Council is responsible for licensing hackney carriage (taxis) and private hire drivers (PHV), vehicles, and private hire operators. In undertaking those responsibilities, the Council has regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures
- 2.2. In July 2020 the Secretary of State for Transport published new Statutory Taxi and Private Hire Vehicle Standards to all licensing authorities. [statutory taxi and private hire vehicle standards](#) The Standards are aimed at safeguarding children and vulnerable

adults. The Standards were developed to set-out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable.

- 2.3. The Standards are the result of extensive consultation with the police, the trade, the Institute of Licensing, and others and sets out the approach that Licensing Authorities should adopt when carrying out their functions. Under s.177(4) of the PCA the council **must** have regard to this statutory guidance when undertaking its taxi and private hire vehicle licensing functions, it shall be followed unless there is a compelling local reason not to do so.
- 2.4. In addition, the Department for Transport (DfT) has published new statutory guidance for licensing authorities in England which is intended to help licensing authorities comply with their new duties under the TPHVA which came into effect on 31 May 2022. [taxis and private hire vehicles safeguarding and road safety act 2022](#). Again, under s.7 of the TPHVA, the council **must** have regard to statutory guidance that was issued on 27 April 2023.
- 2.5. The Council is required to review its taxi licensing policies and standards to ensure they meet the standards outlined in the legislation and guidance. All of these requirements are in response to longstanding national concerns about public safety in this sector.

3. The Proposal

Statutory Taxi and Private Hire Vehicle Standards Statutory Standards

- 3.1. Licensing Officers have conducted a full assessment against the Statutory Standards to compare against current requirements (**Appendix 1**). The authority has already implemented a number of the recommendations, but the assessment also highlights where further changes are required through changes to current policies and procedures.
- 3.2. The following table is a summary of the main requirements of the Statutory Standards highlighting the council's position to date.

Statutory Standards	Requirement	Council Position
Licensing policy	Authorities should produce a 'cohesive policy document' that brings all procedures together and reviewed every five years.	Policies are being reviewed with the intention of producing an overarching Hackney Carriage and Private Hire Licensing Policy which incorporate the standards as highlighted.
Fit and Proper Test	Test based on a balance of probabilities basis and proportionate.	In line with existing policies
Administration	Sufficient training and adequate resource for those involved with making licensing decisions. Delegations should be set out in a clear scheme and less contentious matters can be resolved by authorised officers.	Mandatory requirement that all Councillors, who sit on the Licensing Committee, must undergo licensing training. Reviewing delegations to consider extending some decisions to officers.
DBS Checks	Drivers and operators are to subscribe to the DBS Update Service.	Proposed to make subscription a requirement. Implemented the DBS check review period.

	6 monthly DBS checks for drivers, 12 months for operators.	
Multi-agency Safeguarding Hub (MASH)	Establish a means to facilitate the objectives of the local MASH to remove barriers to effective safeguarding.	Reporting between parties taking place with formal agreements to be set up.
Mandatory Safeguarding Training for drivers	Safeguarding advice and guidance and explain to drivers how to respond and report concerns and where to get advice. To include 'County Lines' drug trafficking awareness.	Mandatory training in place to cover all areas.
Joint Enforcement	Jointly authorises officers from other authorities so enforcement action can be taken against licensees from outside their area.	To reach agreement with neighbouring authorities to establish joint authorisations.
CCTV in vehicles	Local consultation to determine if mandatory CCTV would have a positive or negative on the safety of passengers	Identify best practice and provide further report to the licensing committee to determine next steps.
Proficiency in English language	Drivers able to converse with passengers to understand destination, estimates of time along with other common passenger requests.	English proficiency test to be introduced unless driver has an appropriate educational qualification certificate.

Hackney Carriage and Private Hire Convictions Policy

- 3.3 The Statutory Standards state that 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.
- 3.4 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.
- 3.5 Officers have updated the council's policy (**Appendix 2**) to align with the DfT's recommendations on the assessment of previous convictions. 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.
- 3.6 A comparison showing the changes to the existing Convictions Policy is shown at **Appendix 3**.

Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

- 3.7 The Act requires, if any licensing authority in England has information about a taxi or PHV driver licensed by another authority that is relevant to safeguarding or road safety concerns in its area, it must share that information with the authority that issued that driver's licence. Any licensing authority provided with such information by another authority must consider whether to suspend or revoke the driver's licence and inform the authority that shared the information of its decision.
- 3.7.1 Once the licensing authority becomes aware of the safeguarding or road safety concerns, it has 10 working days to provide the relevant information and any other information to identify the driver to the licensing authority that issued the driver's licence. Within 20 working days of receiving the concerns, the licensing authority must inform, in writing, the licensing authority that reported the concerns whether it has suspended or revoked the driver's licence or intends to do so.
- 3.7.2 In addition, the Act requires licensing authorities in England to input, into a central database, instances where the authority has refused, suspended, chosen not to renew or revoked a taxi or PHV driver's licence based wholly or in part on information relating to the driver concerning safeguarding or road safety.
- 3.7.3 The authority has registered with the National Anti-Fraud Network's database, the National Register for Revocations, Refusals and Suspensions (NR3S). Officers are actively checking the database for every taxi or PHV driver's licence application received and adding to NR3S the details of any new taxi and PHV driver licence revocation and refusal decisions, together with previous revocations and refusals.
- 3.7.4 The requirements of the Act have been implemented.

4. Contribution to Strategic Aims

- 4.1. The legislation primarily aims to protect and enhance the safety of taxi and PHV passengers, safeguarding children and those most vulnerable.
- 4.2. Through implementing these requirements, this will ensure the council has an effective regulatory framework, working collaboratively with other agencies and authorities to administer and enforce statutory and local requirements. This will benefit both the trade and customers and will contribute to the following priorities in the Corporate Plan:
- Thriving Communities – by ensuring the Taxi and PHV sector remains integrated into our sustainable transport network and the sector is safe and trusted; passengers are confident in using the services and vehicles are modern and accessible.
 - Inclusive Economy - Taxis and PHVs are one of the most flexible elements of the transport system operating 24/7 on a commercial basis. They are integral to supporting local businesses to thrive by transporting residents and visitors around the Borough. The services are a primary mode of passenger transport for many people for whom mainstream public transport is not an option or suitable. Taxis and PHVs help support many disabled and vulnerable people to live more independent lives. They also play an important part in supporting the night-time economy, providing a safe and secure mode of transport for many people home.

5. Environmental and Climate Implications

- 5.1. There are no environmental or climate implications arising from the decisions in this report. The council has a duty to adopt the requirements of the legislation which are aimed to enhance safety in the Hackney Carriage and PHV sector.

6. Community Engagement

- 6.1. The council will conduct a consultation exercise with the Taxi and PHV trade with regards implementing a policy on CCTV within vehicles.
- 6.2. A consultation exercise will be conducted with the trade on the proposed Hackney Carriage and Private Hire Vehicle Convictions Policy.

7. Equality Implications

- 7.1. Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to:
 - eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.2. The Council will undertake an equality impact assessment scoping exercise on the projects included within the recommendations where applicable and at the appropriate stage of development. For example, with regard to the introduction of an English proficiency test.

8. Other Relevant Considerations

- 8.1. There are no other relevant considerations.

9. Legal Implications

- 9.1. Section 177(4) of the Policing and Crime Act 2017 enables the Secretary of State to issue guidance to Licensing Authorities as to how their taxi and private hire vehicle licensing functions shall be exercised so as to protect children and vulnerable adults and requires authorities exercising their licensing functions to have regard to it. Licensing Authorities have a legal duty to have regard to the minimum standards – this means that the Authority **must** take the standards into account and must give clear and compelling reasons for any departure from them.
- 9.2. The powers to grant or renew, hackney carriage and private hire vehicle driver and operator licenses are contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 9.3. In respect of the grant of a licence to drive hackney carriage and private hire vehicles, you may refuse on the grounds that the applicant is not a fit and proper person to hold such a licence or has not held a full driving licence for at least twelve months.
- 9.4. In respect of the grant of a private hire operator licence, you may refuse on the grounds that the applicant is not a fit and proper person to hold such a licence.
- 9.5. In respect of renewal, revocation or suspension of a licence to drive hackney carriage and private hire vehicles, you may refuse to renew or may revoke or suspend a licence on the grounds that since the grant of a licence: (a) the applicant has been convicted of an offence involving dishonesty, indecency or violence; (b) the applicant has been convicted of an offence or failed to comply with the legislation controlling the private hire vehicle trade; (c) any other reasonable cause.
- 9.6. In respect of the renewal, revocation or suspension of a private hire operator licence, you may refuse to renew or may revoke or suspend a licence on the grounds that since the grant of a licence: (a) any offence under, or non-compliance with, the provision of this Part of this Act. (b) any conduct on the part of the operator, which appears to the district council to render him unfit to hold an operator's licence. (c) any material change since the licence was granted in of the circumstances of the operator on the basis of which the licence was granted. (d) any other reasonable cause.

9.7. An applicant aggrieved by the refusal, refusal to renew suspension or revocation of a licence may appeal to the Magistrates' Court.

10. Financial Implications

10.1. Where detailed aspects of the strategy, as they are introduced, result in additional costs as part of the licensing process, this will be reflected in the fees charged. Higher fares could result where operators and driver's costs increase. Any changes to the fees or fares are required to be approved through the committee process.

11. Timetable for Implementation

11.1 Following approval of the proposal a consultation exercise will be conducted with the trade and a further report submitted to the committee on the final Hackney Carriage and Private Hire Vehicle Convictions Policy.

12. Background Papers

12.1. There are none.

Appendices

- 1. Assessment against the Statutory Standards**
- 2. Proposed Hackney Carriage and Private Hire Conviction Policy**
- 3. Comparison between the existing and new Conviction Policy**