

Licensing Committee (Non-Licensing Act 2003 Functions)

Date: **26 November 2020**

Time: **3.00pm**

Venue **Virtual via Microsoft Teams. In line with current Central Government Guidance this meeting will take place virtually and there will be the opportunity for Public Engagement**

Members: **Councillors:** Deane (Chair), Davis (Deputy Chair), O'Quinn (Opposition Spokesperson), Simson (Group Spokesperson), Appich, Atkinson, Bagaeen, Ebel, Fowler, Henry, Hill, Lewry, Osborne, Knight, Rainey and Wares

Contact: **Penny Jennings**
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AGENDA

9 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest:

- (a) Disclosable pecuniary interests
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: *Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

10 MINUTES OF THE PREVIOUS MEETING

7 - 10

Minutes of the meeting held on 25 June 2020 (copy attached)

11 CHAIR'S COMMUNICATIONS

12 CALLOVER

- (a) Items (13 – 17) will be read out at the meeting and Members invited to reserve the items for consideration.

- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

13 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on 20 November 2020;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on 20 November 2020.

14 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

15 COVID 19 UPDATE, TAXIS LICENSING AND ENFORCEMENT

11 - 22

Report of the Interim Executive Director, Housing, Neighbourhoods and Communities (copy attached)

*Contact Officer: Alex Evans
Ward Affected : All Wards*

Tel: 296659

16 LICENCE FEES 2021/2022

23 - 40

Report of the Interim Executive Director of Housing, Neighbourhoods and Communities (copy attached)

*Contact Officer: Jim Whitelegg
Ward Affected: All*

Tel: 292438

17 STATUTORY TAXI & PRIVATE HIRE VEHICLE STANDARDS

41 - 84

Report of the Interim Executive Director of Housing, Neighbourhoods and Communities (copy attached)

*Contact Officer: Alex Evans
Ward Affected: All Wards*

Tel: 296659

18 ITEMS REFERRED FOR COUNCIL

To consider items to be submitted to Council for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting.

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email penny.jennings@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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- Do not stop to collect personal belongings;
- Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions; and
- Do not re-enter the building until told that it is safe to do so.

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

4.00PM 25 JUNE 2020

VIRTUAL, VIA SKYPE

MINUTES

Present: Councillors O'Quinn (Chair), Atkinson (Deputy Chair), Deane (Opposition Spokesperson), Simson (Group Spokesperson), Appich, Bagaeen, Davis, Ebel, Fowler, Osborne, Rainey, Wares and Williams

Apologies: Councillors Henry and Lewry

PART ONE

1 PROCEDURAL BUSINESS

(a) Declarations of Substitutes

1.1 There were none.

(b) Declarations of Interest

1.2 There were no declarations of interests in any matter listed on the agenda.

(c) Exclusion of Press and Public

1.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

1.4 **RESOLVED:** That the press and public be not excluded from the meeting during consideration of any items on the agenda

2 MINUTES OF THE PREVIOUS MEETING

RESOLVED – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 12 March 2020 be agreed and signed as a correct record.

3 CHAIR'S COMMUNICATIONS

4 CALLOVER

4.1 All items appearing on the agenda were called for discussion.

5 PUBLIC INVOLVEMENT

5a Petitions

5.1 There were none.

5b Written Questions

5.2 There were none.

5c Deputations

5.3 There were none.

6 MEMBER INVOLVEMENT

6a Petitions

6.1 There were none.

6b Written Questions

6.2 The following written question set out at Item 6b on the agenda had been received from Councillor Simson:

“Will the Chair please give an explanation as to why the taxi trade has not been consulted on changes to street layouts resulting in the loss of taxi ranks in response to Covid 19 emergency measures and will she give assurance that consultation will take place on any future changes?”

6.3 The Chair, Councillor O’Quinn gave the following response:

“The council, via Traffic Management, has the power under section 14 of the Road Traffic Act to temporarily remove a bay due to public safety. In this case it relates to social distancing and the need to provide separation as much as possible for people moving through the area in these unprecedented times. The council had to act very quickly as St James Street was identified as a high risk for people queuing in the area and the need to have it ready for the opening of retail. The decision was not taken lightly, but there was little choice as this location was a particular challenge. Traffic Management have emphasised that the change is temporary and they are keen to find an alternative location with the Trade.

6.4 **RESOLVED** – That the response given be received and noted.

6c Letters

6.5 There were none.

6d Notices of Motion

6.6 There were none.

7 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT AND MONITORING

7.1 The Committee considered a report of the Interim Executive Director of Housing, Neighbourhoods and Communities updating Members This report is to update Members on enforcement action taken against Hackney Carriage & Private Hire Drivers and Applicants between March and June 2019.

7.2 **RESOLVED** – That the contents of the report be noted and that officers continue to take action as appropriate.

8 ITEMS REFERRED FOR COUNCIL

8.1 There were none.

The meeting concluded at 6.25pm

Signed

Chairman

Dated this

day of

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 15

Brighton & Hove City Council

Subject: Covid19 Update – Taxis Licensing & Hackney Carriage & Private Hire Driver Enforcement and Monitoring

Date of Meeting: 26 November 2020

Report of: Interim Executive Director of Housing, Neighbourhoods & Communities

Contact Officer: Name: *Alex Evans/Martin Seymour* Tel: 296659

E-mail: alex.evans@brighton-hove.gov.uk /
martin.seymour@brighton-hove.gov.uk

Wards Affected: All

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report was requested by Members to provide an update of the effects of Covid-19 on Taxis Licensing and to update Members on enforcement action taken against Hackney Carriage & Private Hire Drivers and Applicants between June and November 2020.

2. RECOMMENDATIONS:

- 2.1 That Members note the contents of this report and that officers should continue to take action as appropriate.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Officers are deeply conscious of how the taxi trade has been impacted by the coronavirus pandemic and subsequent restrictions. We appreciate that this is very difficult time for licence holders. The Taxi Licensing Team have kept in contact and checked in with the Trade whenever possible, including holding a virtual taxi forum in September.
- 3.2 Officers are working with the Trade to be as flexible as possible with regard to licensing drivers and vehicles in these difficult times, at the same time as continuing to operate the licensing regime to the best of our capabilities in a way that is fair to all and ensuring the safety of the public.
- 3.3 The taxi licensing team have had to continually adapt how licenses are issued including some checks such as for CCTV. As some GP's are not currently carrying out driver medicals officers are issuing temporary licences depending on past

medical history and previous 12 months GP record which is reviewed by the council independent medical advisor.

- 3.4 Officers have taken a pragmatic approach in maintaining the licensing regime under difficult circumstances, working from home and occasional access to Hove Town Hall to issue, plates, badges and applications received by post. The trade has been very appreciative of how the service has been adapted in such difficult circumstances continuing issuing licences largely by email application as well as post. Officers have prioritised the inspections and licensing of new or replacement vehicles to ensure that drivers are able to work as soon as possible.
- 3.5 Several proprietors have SORN (Statutory Off Road Notification) their vehicles and cancelled insurance or reduced cover during this period and officers have designed a plate sticker to show that a particular vehicle is not currently licensed. Private Hire Vehicle proprietors can delay renewal until returning to work but due to the Council's restricted numbers policy for Hackney Carriage Vehicles these vehicles must make application to renew.
- 3.6 The issue of five new Hackney Carriage plates from the waiting list has now been completed and the 5 successful drivers have been notified.
- 3.7 In normal times we would be asking the November Licensing committee whether they wish for an unmet demand survey to be undertaken next year in considering whether to continue our restricted hackney carriage policy (managed growth of offering 5 new plates a year). Due to Covid-19 and the impact of the subsequent restrictions it is considered that conducting a survey during such unpredictable and unprecedented times would not give an accurate picture in terms of deciding on and justifying a decision on the delimiting policy. Therefore, we will continue with the current policy and defer on deciding on the unmet demand survey for another year
- 3.8 First Applications have now recommenced, and knowledge test are taking place with officers conducting these at operators' officers ensuring that these are covid-19 safe for the officer and the applicant. The route test has temporary been changed from a practical test to a written test. However, knowledge tests are likely to be limited during the latest lockdown.
- 3.9 The Council has temporarily allowed vehicles 10 years old or over at the date the licence expiry, to renew for an extra year until 31st March 2021. The policy will then revert to current age limits on 1st April 2021. As Private hire vehicles numbers are not restricted, they are already able to delay relicensing and the Council will continue to allow existing private hire vehicles to renew after expiry. The Council temporary allowed Hackney Carriages whose licences expired on or before the 30th September 2020 to delay completing their application for 6 months provided that a valid application was made before the existing licence expired and the required licence fee is paid.
- 3.10 Covid-19 and the need to avoid face to face and social distancing has impacted on enforcement and prevented officers undertaking enforcement activities for several months. Limited out of hours enforcement work recommenced late August by officers not limited by shielding during the evenings and at weekends. Officers are extremely

keen for joint operational work with all neighbouring authorities and to work with them to support each other and identify and resolve any issues especially those identified by the trade and has included joint enforcement operations with Lewes District Council and Worthing and Adur Council. This includes monitoring of hot spot areas for over and illegal ranking and illegally plying for hire, vehicle inspections and occasional test purchase operations. General enforcement is essentially checking the vehicle is safe to be on the road and that the driver's details are correct. However, this work is likely to be limited again during the latest lockdown.

- 3.11 Legislation in relation to the Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions) Act 1976 which applies to both hackney carriages and private hire vehicles is enforced by the local authority. Non-criminal enforcement can also be affected by means of action taken against the licence held by the person who has transgressed such as warnings, suspensions or revocations.
- 3.12 Any driver must be a fit and proper person. It is not possible to give a precise definition of what this is, but at its heart is keeping passengers safe and free from risk. It is the responsibility of the applicant to satisfy the council that they are fit and proper and that they are safe and suitable to hold a licence.
- 3.13 The council can suspend, revoke or refuse a hackney carriage or private hire vehicles and/or driver licences. However, a driver licence cannot be suspended and then revoked at a later date such as at the conclusion of a prosecution. Other actions are available to officers such as verbal or written warnings which can be applied in line with the Councils [Licensing Enforcement Policy](#).
- 3.14 All cases are looked at on their own individual merit and if necessary such as in CSE cases multi agency meetings may be held to review available evidence. When taking action against a licence, decisions are investigated by officers and a recommendation is made to a manager who makes the decision in consultation with a lawyer. In addition, the most difficult matters would come to the Chair and to the two lead members for discussion. If a matter was serious and required immediate suspension, then officers would come to members as soon as possible after they had taken action.
- 3.15 For actions taken against drivers / applicants between June and November 2020 See Appendix B.

Brighton Station Rank

- 3.16 On the 11th November 2019 GTR (Govia Thameslink Railways) relocated the station taxis rank from the front of the station (Junction Road) to the North side of the station (Stroudley Road). The decision on where the rank sits and how it is operated is the train operators as both ranks are located on private land. The new rank to the north is larger than the rank provided at the south and can accommodate more taxis than the southern rank. In preparation of moving the rank GTR made improvements to the road layout to accommodate the taxis rank.

- 3.17 Hackney Carriage Brighton Station permit holders have highlighted some aspects of the new rank that were causing issues. Following the move a meeting was arranged on the 16th December with GTR, Trade reps and Council Officers. This was the first meeting directly with GTR since two other reps came to the trade forum meeting earlier last year and the instigation of moving the rank to the North.
- 3.18 More recently there have been several complaints including touting regarding Hackney Carriages waiting in the slip road at the front of the station rather than using the rank at the North of Brighton Station. There have also been operational problems with the temporary rank when the rank is closed.
- 3.19 A virtual meeting with GTR & Officers was held on Friday 30th October 2020 where a range of concerns were discussed. The main points of discussion

Permit Holders Payments

GTR stated that DFT is currently looking at several measures that have impacted the transport sector as a whole over the pandemic, part of this is the taxi/private hire trade. They are awaiting that report before making any decision on permits and fees but they are completely sympathetic to the trade in relation to the permit fee. It was raised that the trade had requested a payment plan i.e. pay in instalments of some kind – GTR have taken this on board and in principle are supportive of this but will report back once the DFT report is released.

Front of Station

BHCC discussed the issue with non-permit holder taxis ranking up at the front of station particularly in the slip road and the problems that we have enforcing this. GTR raised that their staff had been surrounded by about 15 drivers at one point and they no longer deal this as it has become a welfare issue for their staff. CCTV cannot be used to enforce on yellow lines, and this needs a CEO to be in place to issue a ticket. As soon as a CEO is present, they drive off. This is a circle of events, we can look at dealing with them under fit and proper, but this would need a pattern of offending to be recorded with evidence by written or photographic means along with checking operator records / CCTV and interview of drivers – we could look at an action week to target this problem pulling in joint enforcement recourses.

A solution to deal with part of the problem is to install a barrier at the entrance to the slip road. GTR are fully supportive of this. The station managers have keys to open the main gates (into the old rank) and GTR are happy for station managers to be given keys to open a second barrier when required. Highways need to confirm with Budgens as this would affect them for deliveries, so a solution would be for them to have a set of keys to open the barrier for deliveries. This would also require an updater TRO (Traffic Regulation Order) to be put in place however this would be done as soon as possible.

GTR also gave the following updates of actions taken since the last meeting in December 2019 on the matters that had been raised at that meeting

- I. GTR have committed to investigate a canopy for waiting passengers and will consult with Trade reps

GTR removed the bike rake that was immediately outside of the station as you approach the rank, this resulted in a covered area being available for the public to queue for Taxis and therefore they decided that no canopy was required.

- II. GTR will improve the signage and comms for directing foot passengers to the rank

It was raised by BHCC that since the new one-way systems had been introduced at the station due to COVID that passengers alighting from the west bound trains (Hove) that there was no signage to direct them to the Taxi rank. GTR are in the process of installing new digital information displays that could include Taxi rank directions, these have been ordered and they have an 8 week or less turnaround. Hopefully these will be in place for January 2021.

- III. GTR will look to investigate the implications of moving the public/private hire pick up/drop off points on the South side of Stroudley Road into the station. This will make the south end of Stroudley Road permit holders and access only.

ANPR Cameras will be installed to protect the taxi rank from being used by any vehicle other than a permit holder – they are just finalising details re a supplier for this. No date is known when they will be installed but will update us.

When bus replacements are in place, this will displace the permit holders being able to use the rank – a temp area will be set up in the front portion of the carp park, spaces will be limited and there will not be the same capacity as the rank – GTR will investigate creating a white list for permit holders during bus replacement days so they would not be restricted to the 20 minute stay.

It was raised that there appears to be a lot of bus replacement days, however GTR stated that there was no more than normal and COVID had not increased the number of bus replacements days, it was also noted that permit holders are effected less with the rank being closed at the rear to what they experienced at the front as they are no longer subject to closure on days of events, such as football, Pride etc (of course with Covid-19 has an effect on events this year)

- IV. GTR will seek to provide a new public/private hire drop off within the adjacent car park

Signposts have already been installed for permits holders only / all private hire (pre-booked) and members of the public dropping off/ picking up are directed to use car park, this carp park is controlled by ANPR cameras and a 20 minute stay is allowed before an automatic penalty is issued.

- V. GTR will look into keeping the gates open to allow access to the rank from the front of the station late at night

Highways are progressing with a night time rank to be introduced outside the IBIS Hotel

- VI. GTR agreed to look at options on rail replacement days, including allowing permit taxis to share space with buses

No update on this at the moment

- VII. GTR to look at what welfare facilities are available to taxi permit holders

GTR looking at a restaurant below the cycle storage/gym and toilets may be part of this plan – further updates to provided post pandemic / 20 mins is allowed in carpark for drivers to park up and sue station facilities / plus looking at white list for permit holders may allow longer than this.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1. None.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1. This report is for information purposes only, so there are no financial implications.

Finance Officer Consulted: Michael Bentley

Date: 10/11/20

Legal Implications:

5.2 There are no direct legal implications.

Lawyer Consulted: Rebecca Sidell

Date:

Equalities Implications:

5.3 Licensing authorities must ensure that a safe hackney carriage and private hire service is freely available to meet the demand across all sectors of the public, especially those vulnerable groups to whom a taxi or private hire vehicle is often the only means of completing a journey.

Sustainability Implications:

5.4 None.

Crime & Disorder Implications:

5.5 Contained in the body of the report.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1. None – for information only.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1. For information only.



BTEC Vehicle Inspection Programme

Vehicle Reg No _____
 Mileage _____
 Examining Officer _____

Private Hire Badge No _____
 Hackney Carriage Time Stopped _____
 Vehicle No _____ Date Stopped _____
 Location _____

Exterior Lights Front	Serviceable	Unserviceable
Side Lights		
Headlights / Dip / Main		
Fog Lights Front		
Indicators N/S O/S + Hazards		
Exterior Front	Serviceable	Unserviceable
Condition Of bodywork + Number Plate		
Underbonnet Condition		
Oil / Brake / Steering Fluid		
Fluid Leakage		
N/S Front Tyre Depth Pressure		
N/S Wheel + Nuts		
N/S Suspension Leaking / Bounce		
N/S Wing Mirror		
O/S Front Tyre Depth Pressure		
O/S Wheel + Nuts		
O/S Suspension Leaking / Bounce		
O/S Wing Mirror		
Steering Systems	Serviceable	Unserviceable
Amount of Free Play		
Condition of Gaitors		

Driver Interior / Exterior	Serviceable	Unserviceable
Condition of Steering Wheel		
View to Front and Side / Tints		
Seatbelts / Driver + Passenger		
Footbrake Operation + Slip Device		
Carpets / Wires / Obstructions		
Radio + PDA + Sta Navs		
ABS Warning + Other Warning Lights		
Handbrake Operation + Warning Light		
Seat Security		
Door + Window Operation (All)		
Signs / Fare Tables / Badges Etc		
Taximeter + Calibration		
O/S Passenger / Interior + Exterior	Serviceable	Unserviceable
Seatbelts / Passenger + Centre Belt		
Carpet Condition / Tears / Trip Hazard		
Window Operation		
Door Operation / Fuel Filler + Cap		
O/S Rear Tyre Depth + Pressure		
O/S Wheel + Nuts		
O/S Suspension Leaking / Bounce		

Rear Of Vehicle	Serviceable	Unserviceable
Side Lights		
Brake Lights + High Level / Central Lights		
Indicators N/S O/S + Hazards		
Rear Fog Lights		
Reversing Lights		
Number Plate Condition + Light		
Tailgate / Boot Operation		
Spare Wheel or Inflator Kit		
N/S Passenger / Interior + Exterior	Serviceable	Unserviceable
Seatbelts / Passenger		
Carpet Condition / Tears / Trip Hazard		
Window Operation		
Door Operation / Fuel Filler + Cap		
O/S Rear Tyre Depth + Pressure		
O/S Wheel + Nuts		
O/S Suspension Leaking / Bounce		
Additions	Serviceable	Unserviceable
Fire Extinguisher		
First Aid Kit		
Wipers / Washers / Horn		

Brief Report

Defects likely to warrant suspension Yes No

General Condition of Vehicle

Good
 Average
 Poor
 Very Poor

Other Defects Noted _____

Categorisation of Defects
 Section _____ Page _____ I.M No _____

Note _____

Suspension Issued

Yes No

Enforcement Actions Since Licensing Committee June 2020

	Licence Type	Date	Brief Description of Case	Aggravating Factors:	Mitigating Factors:	Enforcement Action Taken:
1.	LDC	13.08.20	LDC vehicle waiting on a BHCC rank.			Written warning and LDC informed.
2.	HCDUAL	13.09.20	Driver witnessed by enforcement officer to be smoking in his vehicle whilst at Brighton Station Rank.			Written Warning.
3.	HCDUAL	17.08.20	Driver convicted at crown court for perverting the course of public justice –	2 months prison sentence		Licence suspended and arrangements with driver when he is released from prison to interview.
4.	HCDUAL +HCVL	24.09.20	Driver arrested by Police on suspicion of being concerned in the supply of class A drugs and Modern Slavery. At the time of his arrest he was driving a Hackney Carriage vehicle. A 16 year old male who was in the vehicle was also arrested.	Serious offence with safeguarding issues identified.	Live investigation.	Drivers and Vehicle licence revoked.
5.	HCDUAL + HCVL	07.08.20	Driver arrested by Police on suspicion of Human Trafficking, being concerned in the supply of class A drugs and money laundering. At the time of his arrest he was driving a Hackney Carriage vehicle. A 17 year old male who was in the vehicle was also arrested.	Serious offence with safeguarding issues identified.	Live investigation	Driver and Vehicle licence revoked.

6.	HCDUAL	23.10.20	Driver failed to reach the group 2 medical standard.			Licence suspended with immediate effect.
7.	HCDUAL	23.10.20	Driver failed to reach the group 2 medical standard.			Licence suspended with immediate effect.

LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

Agenda Item 16

Brighton & Hove City Council

Subject:	Licence fees 2021/2022		
Date of Meeting:	26 November 2020		
Report of:	Interim Director of Housing, Neighbourhoods & Communities		
Contact Officer:	Name:	Jim Whitelegg, Regulatory Services Manager	Tel: 29-2438
	Email:	Jim.whitelegg@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report sets out the proposed licence fees and charges for 2021/22 relating to Street Trading, Sex Establishments and Sex Entertainment Licences, Gambling premises, Taxi Licensing and Animal Activity Licences.

2. RECOMMENDATIONS:

- 2.1 That the committee approves the following licence fees:
- Taxi Licence fees - as set out in Appendix 1.
 - Sex Entertainment Venues and Sex Establishments fees –increase by an average of 2% as set out in Appendix 2.
 - Street Trading fees– increase by an average of 2% as set out in Appendix 2.
 - All Gambling Act 2005 fees – as set out in Appendix 2.
 - Raise all Animal Activity Licences by an average of 2% as set out in Appendix 5.

A list of agreed fees for 2020-21 and proposed fees for 2021-22 is included in Appendices 1-2 & 5.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 In order to ensure that council tax payers are not subsidising work concerning licensing administration, income is raised by licence fees with the aim of covering the cost of administration of each regime within the constraints of regulation. Licence fees should not be used to raise surplus revenues. The regulation of setting fees is detailed and changes as a result of legislation and cases; outlined below. It is proposed to raise all fees by the corporate rate of inflation (2%) for 2021/22 and as a minimum each year thereafter. Given that our fees have been benchmarked and can demonstrate they are set fairly, it is felt that this approach helps provide more certainty for the trade and ensures that our costs are fully recovered each year (taking account of inflationary uplifts). If there were any

significant variations to the costs, then these would be communicated to the trade and clearly be taken into account when setting the relevant fee/s.

Licence Fee Setting – general principles

- 3.2 There must be a proper determination of the authorisation fee (see Hemming 2015, 2017] UKSC.
- 3.3 A clear understanding of the policy and objects of the regime in question is required. It follows that the relevant considerations for vetting an applicant for a street trading licence will be different to those required for a sex establishment (see R v Manchester City Council ex parte King (1991) 89 LGR 696; also R (on the application of Davis & Atkin) v Crawley Borough Council [2001] EWHC 854 (Admin)). Particular attention needs to be had to those statutory provisions where a power is given to the local authority for the determination of an authorisation fee and other administrative fees.
- 3.4 Applicability of the European Services Directive (see Hemming [2015, 2017] UKSC: The Directive applies to street trading and sex licensing; not gambling or taxis.
- 3.5 Different fee levels for different types of application. A licensing authority is entitled to set either the same or different fee levels for different types of applications: i.e. grant, renewal, variation, alteration or transfer. R v Greater London Council, ex parte Rank Organisation [1982] LS Gaz R 643.
- 3.6 Recovery of deficit. In R v Westminster City Council, ex parte Hutton (1985) 83 L.G.R. 461 it was held that where the fee income generated in one year fails to meet the costs of administering the licensing system, it is open to the local authority to make a proportionate increase in the licence fee for the following year so as to recoup the cost of the shortfall (Hutton at p 518). This longstanding principle was confirmed in Hemming [2012].
- 3.7 Accounting for surplus. In Hemming [2012] EWHC 1260 (Admin) and [2013] EWCA Civ 591 the court determined surpluses as well as deficits are to be carried forward. The licensing authority is not entitled to make a profit. (R v Manchester ex parte King 1991 89 LGR 696.
- 3.8 Rough and ready calculations. In Hemming [2012] EWHC 1260 (Admin) and [2013] EWCA Civ 591, the court did not require pin-point precision year on year. The council does not have to adjust the licence fee every year to reflect any previous deficit or surplus, so long as it 'all comes out in the wash' eventually. And the adjustment does not have to be precise: a rough and ready calculation which is broadly correct will do.
- 3.9 Anticipated costs. Cases demonstrate that the fee level may be fixed by reference to anticipated costs of administering the authorisation scheme.
- 3.10 Over-estimation. If the fee levied in the event exceeds the cost of operating the scheme, the original decision will remain valid provided it can be said that the

district council reasonably considered such fees would be required to meet the total cost of operating the scheme. R v M ex parte King.

Hackney Carriage & Private Hire

- 3.11 The Council must be able to show that it calculates hackney carriage and private hire licensing fees in accordance with the specific requirements of the Local Government (Miscellaneous Provisions) Act 1976. This requires that such fees have to be reasonable to recover the cost of issue and administration of licences. They cannot be used to raise revenue or fund activities such as taxis marshals. This has been confirmed in a recent court case Cummings and Others v Cardiff City Council which also confirmed that fees set must have regard to any surplus or deficit in previous years for each regime (hackney carriage or private hire).

The recent Court of Appeal case: R. (on the application of Rehman) v Wakefield City Council, December 2019, established that costs of administration under S53(2) of the above act could include the costs of enforcement against drivers of hackney carriages and private hire vehicles.

The Act allows the following costs to be recovered in the fees:

- The reasonable cost of carrying out vehicle inspection to decide if a licence should be granted
 - The reasonable costs of providing hackney carriage stands
 - Any reasonable administrative or other costs in connection with vehicle inspection and providing hackney carriage stands and
 - Any reasonable administrative or other costs in the control and supervision of hackney carriage and private hire vehicles.
- 3.12 A trading position has been established, taking into account all expenditure that the Council has incurred in administering the service, including both direct and indirect costs. (Indirect costs for example would include an element of management time to oversee the activity, a legitimate expense in administering the licensing function). The results are set out in the table below.

Taxi Licensing	
Financial Year	£'000 (- Surplus)/ Deficit
2019/20 Actual	-1
2020/21 Forecast	3
2021/22 Budget	4
Total	6

- 3.13 The fee structure has been reviewed and simplified to help improve the application process and allow payments to be made on-line. This has resulted in some fees being discontinued and/or incorporated with other fees, which has led to some of the proposed increases being higher than the corporate rate of inflation of 2%. There is also a new 'Vehicle Transfer fee', this will include any variation to the licence during the term of the licence, including adding and removing names, and reflects the costs involved in dealing with these requests. Overall the level of income will be largely unaffected by these changes

and the proposed fees are set at a level to ensure that there is full cost recovery only. The current and proposed fees are set out in Appendix 1.

Detailed Trading Accounts are attached in Appendix 3.

Sex Establishments and Street Trading

- 3.14 Sex Establishments:-The administration of Sex Establishments and Sex Entertainment venues (SEV)s is broken down as follows:
There are 5 Sex Establishments in total, for which renewal applications are processed annually, including officers carrying out annual inspections to ensure compliance with their licence. It is unlikely that a further sex establishment licence would be granted as this would be contra policy.

SEVS: There are 3 SEVs in total. SEV fees are based on licence renewals. It is unlikely that a further SEV licence would be granted as this would be contra policy. Annual inspections are carried out to ensure compliance with their licence.

- 3.15 A trading position has been established, taking into account all expenditure that the Council has incurred in administering the service, including both direct and indirect costs. The results are set out in the table below.

Sex Establishments and Sex Entertainment Venues	
Financial Year	£'000 (-Surplus)/ Deficit
2019/20 Actual	5
2020/21 Forecast	-1
2021/22 Budget	-1
Total	3

The proposed fees are set to rise in line with the corporate rate of inflation at 2%. Detailed Trading Accounts are attached in Appendix 4.

- 3.16 Following the same principles as stated previously, a trading position has been established for Street Trading. During 2020/21, the majority of inspections carried out by officers were recoverable. The administration of street trading is wholly recoverable, broken down as follows:

Zone A:-

3 traders at 50 sq ft – all pay quarterly

2 traders at 42 sq ft - both vacant

(2 paid, 2 unpaid & 1 allocated)

Zone B:-

28 traders – 11 paid/17 unpaid)

Upper Gardner Street Saturday Market:-

Total 48 traders (74 pitches) – 19 paid/29 unpaid

- 3.17 Taking into account all the council expenditure incurred in administering the service including an element of management time to oversee the activity, the results are set out in the table below.

Street Trading	
Financial Year	£'000 (-Surplus)/ Deficit
2019/20 Actual	-2
2020/21 Forecast	0
2021/22 Budget	0
Total	-2

The proposed fees are set to rise in line with the corporate rate of inflation at 2%. Detailed Trading Accounts are attached in Appendix 4.

Gambling Act 2005

- 3.18 The proposed fees are set to increase by an average of 2% in most cases, Where fees charged are already at the maximum level (set nationally) they are unchanged.. Trading accounts can be found at Appendix 4.

Gambling Act	
Financial Year	£'000 (-Surplus)/ Deficit
2019/20 Actual	1
2020/21 Forecast	2
2021/22 Budget	2
Total	5

Animal Activity Licensing

- 3.19 It is proposed to raise all fees in line with the corporate rate of inflation (2%) as set out in Appendix 5.

3.20

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Fees must be set.

5. COMMUNITY ENGAGEMENT AND CONSULTATION

- 5.1 Council's finance officer and legal services.

6. CONCLUSION

Fees must be set.

7. FINANCIAL & OTHER IMPLICATIONS:

- 7.1 Financial Implications:

Licence fees are set annually at a level that it is reasonably believed will cover the costs of providing the service, and in accordance with the legal principles involved. This is necessary in order to ensure that council tax payers are not subsidising work concerning licensing administration.

Finance Officer Consulted: Michael Bentley

Date: 16/10/20

7.2 Legal Implications:

Legal constraints on setting fees are as follows:

- Fees must be charged in accordance with the requirements of the legislation under which they are charged. Thus for instance the Licensing Act 2003 gives the Council no discretion as they are set centrally by the relevant government department. Other legislation such as the Local Government (Miscellaneous Provisions) Act 1982 which covers a whole raft of activities and includes street trading and sex establishments simply states that we may charge such fees as we consider reasonable.

The term 'Reasonable' however does not imply wide discretion but incorporates important legal principles and constraints. These were highlighted in the case of *R v Manchester City Council ex parte King* concerning street trading. This case held that the fees charged must be related to the costs incurred in providing the street trading service. They must not be used to raise revenue generally. Fees must be proportionate. This principle is key and applies to other licensing regimes such as sex establishments.

- This principle has been reinforced by the introduction of the European Services Directive which took effect from the end of 2009. The processes must be non-discriminatory, justified, proportionate, clear, objective, made in advance, transparent and accessible. Any fee charged for establishing a service can only be based on cost recovery and cannot be set at an artificial high level to deter service sectors from an area. The applicability of the Directive has been discussed in the recent case of *Hemming (and others) v Westminster City Council* (2015) (2017) UKSC. It is permissible for enforcement costs to be included in a licence fee but this element of the fee must be levied once the application has been granted. The Council should schedule regular fee reviews.
- Therefore the trading accounts must be carefully looked at in accordance with these principles. There is a risk of challenge by way of Judicial Review in cases where fees are set at an unreasonable or unlawful level.

Lawyer Consulted: Rebecca Sidell

Date:

7.3 Equalities Implications:

There are no direct equalities implications.

7.4 Sustainability Implications:

There are no direct sustainability implications.

Any Other Significant Implications:

SUPPORTING DOCUMENTATION

Appendices:

- 1-2 List of fees and charges.
- 3-4. List of Trading accounts.
5. Current and Proposed Fees for Animal Activity Licensing

Documents in Members' Rooms

1. None.
2. None.

Background Documents

1. None.

Appendix 1 - Proposed Taxi Licence Fees 2021-22

TAXI LICENCE FEES			
	2020-21	2021-22	
	Agreed Fee £	Proposed Fee £	Change %
<i>First Application (drivers)</i>	£105.00	<i>N/A - incorporated into Drivers Licence fee</i>	
<i>DBS Check*</i>	£44.00	<i>N/A - paid direct by Driver</i>	
<i>Hackney Carriage Drivers Licence (1 Year)</i>	£104.00	<i>N/A - discontinued</i>	
<i>Hackney Carriage Drivers Licence (2 Year)</i>	£208.00	<i>N/A - discontinued</i>	
<i>Hackney Carriage Drivers Licence (3 Year)</i>	£312.00	£320.00	2.6%
<i>Private Hire Drivers Licence (1 Year)</i>	£79.00	<i>N/A - discontinued</i>	
<i>Private Hire Drivers Licence (2 Year)</i>	£158.00	<i>N/A - discontinued</i>	
<i>Private Hire Drivers Licence (3 Year)</i>	£237.00	£250.00	5.5%
<i>Hackney Carriage Vehicle Licence (Full Year)</i>	£186.00	£190.00	2.2%
<i>Hackney Carriage Vehicle Licence (Half Year)</i>	£93.00	<i>N/A - discontinued</i>	
<i>Private Hire Vehicle Licence (Full Year)</i>	£67.00	£70.00	4.5%
<i>Private Hire Vehicle Licence (Half Year)</i>	£33.50	<i>N/A - discontinued</i>	
<i>Hackney Carriage Plate Deposit</i>	£34.00	<i>N/A - incorporated into Vehicle Licence fee</i>	
<i>Private Hire Plate Deposit</i>	£24.00	<i>N/A - incorporated into Vehicle Licence fee</i>	
<i>Private Hire Operator Licence (1 or 2 Cars) - 5 year</i>	£151.00	£155.00	2.6%
<i>Private Hire Operator Licence (3 or more Cars) - 5 year</i>	£536.00	£550.00	2.6%
<i>Hackney Carriage Substitute Vehicle Fee</i>	£25.00	<i>N/A - incorporated into Vehicle Licence fee</i>	
<i>Private Hire Substitute Vehicle Fee</i>	£25.00	<i>N/A - incorporated into Vehicle Licence fee</i>	
<i>Knowledge Test Fee</i>	£25.00	£25.00	0.0%
<i>Route Test Fee</i>	£36.00	£36.00	0.0%
<i>Vehicle Transfer Fee</i>	NEW	£48.00	NEW

Appendix 2 - Proposed Licensing Fees 2021-22

LICENSING FEES			
	2020-21	2021-22	
	Agreed Fee	Proposed Fee	Change
	£	£	%
Sex Establishments and Venues			
Sex Entertainment Venue	£3,380.00	£3,450.00	2.1%
Sex Establishments - Grants	£3,700.00	£3,770.00	1.9%
Sex Establishments - Renewal	£3,380.00	£3,450.00	2.1%
Sex Establishments - Occasional	£2,000.00	£2,040.00	2.0%
Street Trading			
Upper Gardner Street	£510.00	£520.00	2.0%
Zone B	£610.00	£620.00	1.6%
Zone A 50 sq ft.	£4,190.00	£4,270.00	1.9%
Zone A 42 sq. ft.	£3,440.00	£3,510.00	2.0%
Street Artists	£30.00	£30.00	0.0%
Misc. Short Term	£30.00	£30.00	0.0%
Farmers Maker (per stall)	£220.00	£225.00	2.3%
Small Street Marker (per occasion)	£290.00	£300.00	3.4%
Gambling Act			
Existing Casino - Reg 6 and Reg 8 First Annual and Annual Fees	£2,032.00	£2,080.00	2.4%
Existing Casino - Reg 10 Change of circumstance	£13.85	£15.00	8.3%
Existing Casino - Reg 11 Variation	£1,434.00	£1,460.00	1.8%
Existing Casino - Reg 12 Transfer	£1,350.00	£1,350.00	0.0%
Existing Casino - Reg 13 Copy of Licence	£13.85	£15.00	8.3%
Existing Casino - Reg 14 Reinstatement	£1,350.00	£1,350.00	0.0%
Bingo Premises - Reg 5 (2) (a) Non Conversion - Provisional Statement Premises	£741.00	£760.00	2.6%
Bingo Premises - Reg 5 (2) (b) Non Conversion - Other Premises	£1,434.00	£1,460.00	1.8%
Bingo Premises - Reg 6 and Reg 8	£712.50	£730.00	2.5%
Bingo Premises - Reg 10	£13.85	£15.00	8.3%
Bingo Premises - Reg 11	£1,434.00	£1,460.00	1.8%
Bingo Premises - Reg 12	£1,200.00	£1,200.00	0.0%
Bingo Premises - Reg 13	£13.85	£15.00	8.3%
Bingo Premises - Reg 14	£1,200.00	£1,200.00	0.0%
Bingo Premises - Reg 15 Provisional Statement	£1,434.00	£1,460.00	1.8%
Adult Gaming Centre - Reg 5 (2) (a)	£741.00	£760.00	2.6%
Adult Gaming Centre - Reg 5 (2) (b)	£1,434.00	£1,460.00	1.8%
Adult Gaming Centre - Reg 6 and Reg 8	£712.50	£730.00	2.5%
Adult Gaming Centre - Reg 10	£13.85	£15.00	8.3%
Adult Gaming Centre - Reg 11	£1,000.00	£1,000.00	0.0%
Adult Gaming Centre - Reg 12	£1,200.00	£1,200.00	0.0%
Adult Gaming Centre - Reg 13	£13.85	£15.00	8.3%
Adult Gaming Centre - Reg 14	£1,200.00	£1,200.00	0.0%
Adult Gaming Centre - Reg 15	£1,434.00	£1,460.00	1.8%
Betting Tracks - Reg 5 (2) (a)	£741.00	£760.00	2.6%
Betting Tracks - Reg 5 (2) (b)	£1,434.00	£1,460.00	1.8%
Betting Tracks - Reg 6 and Reg 8	£712.50	£730.00	2.5%
Betting Tracks - Reg 10	£13.85	£15.00	8.3%
Betting Tracks - Reg 11	£1,250.00	£1,250.00	0.0%
Betting Tracks - Reg 12	£950.00	£950.00	0.0%
Betting Tracks - Reg 13	£13.85	£15.00	8.3%
Betting Tracks - Reg 14	£950.00	£950.00	0.0%
Betting Tracks - Reg 15	£1,434.00	£1,460.00	1.8%
Family Entertainment Centre - Reg 5 (2) (a)	£741.00	£760.00	2.6%
Family Entertainment Centre - Reg 5 (2) (b)	£1,434.00	£1,460.00	1.8%
Family Entertainment Centre - Reg 6 and Reg 8	£547.80	£560.00	2.2%
Family Entertainment Centre - Reg 10	£13.85	£15.00	8.3%
Family Entertainment Centre - Reg 11	£1,000.00	£1,000.00	0.0%
Family Entertainment Centre - Reg 12	£950.00	£950.00	0.0%
Family Entertainment Centre - Reg 13	£13.85	£15.00	8.3%
Family Entertainment Centre - Reg 14	£950.00	£950.00	0.0%
Family Entertainment Centre - Reg 15	£1,386.00	£1,410.00	1.7%
Betting Other - Reg 5 (2) (a)	£741.00	£760.00	2.6%
Betting Other - Reg 5 (2) (b)	£1,434.00	£1,460.00	1.8%
Betting Other - Reg 6 and Reg 8	£448.80	£460.00	2.5%

Appendix 2 - Proposed Licensing Fees 2021-22

LICENSING FEES			
	2020-21	2021-22	
	Agreed Fee	Proposed Fee	Change
	£	£	%
Betting Other - Reg 10	£13.85	£15.00	8.3%
Betting Other - Reg 11	£1,434.00	£1,460.00	1.8%
Betting Other - Reg 12	£1,200.00	£1,200.00	0.0%
Betting Other - Reg 13	£13.85	£15.00	8.3%
Betting Other - Reg 14	£1,200.00	£1,200.00	0.0%
Betting Other - Reg 15	£1,434.00	£1,460.00	1.8%
Lotteries New - Reg 12	£40.00	£40.00	0.0%
Lotteries New - Reg 14	£40.00	£40.00	0.0%
Renewal - Reg 12	£20.00	£20.00	0.0%
Renewal - Reg 14	£40.00	£40.00	0.0%

Appendix 3 - Taxi Licensing Fee Trading Accounts 2019-2022

Taxi Licensing - Three Year Accounts				
2019-20 Financial Year Actual				
CIPFA Standard Subjective	Hackney Carriages - Vehicles	Hackney Carriages - Drivers	Private Hire - Vehicles	Private Hire - Drivers
	£	£	£	£
Direct Employees	58,526	59,760	19,161	17,284
Indirect Employees (Non DBS)	1,297	1,407	479	407
Indirect Employees (DBS)	0	9,865	0	2,870
Transport Related	1,199	1,300	443	376
Unmet Demand Survey	5,550	0	0	0
Driver Assessments/Checks	0	7,004	0	2,038
Supplies and Services	9,105	9,872	3,365	2,858
Support Services	14,708	15,949	5,435	4,616
Management Overhead	18,527	20,089	6,847	5,815
Total Expenditure	108,912	125,245	35,730	36,264
Total Income	-107,135	-127,143	-37,468	-35,051
Total (Surplus) / Deficit	1,777	-1,898	-1,738	1,212
2020-21 Financial Year Forecast				
CIPFA Standard Subjective	Hackney Carriages - Vehicles	Hackney Carriages - Drivers	Private Hire - Vehicles	Private Hire - Drivers
	£	£	£	£
Direct Employees	61,100	61,790	19,572	17,869
Indirect Employees (Non DBS)	289	313	107	91
Indirect Employees (DBS)	0	0	0	0
Transport Related	614	665	227	193
Unmet Demand Survey	6,000	0	0	0
Driver Assessments/Checks	0	6,197	0	1,803
Supplies and Services	7,870	8,534	2,908	2,470
Support Services	13,902	15,074	5,137	4,363
Management Overhead	19,585	21,236	7,238	6,147
Total Expenditure	109,359	113,810	35,189	32,935
Total Income	-109,616	-111,450	-35,917	-31,806
Total (Surplus) / Deficit	-257	2,359	-728	1,129
2021-22 Financial Year Budget				
CIPFA Standard Subjective	Hackney Carriages - Vehicles	Hackney Carriages - Drivers	Private Hire - Vehicles	Private Hire - Drivers
	£	£	£	£
Direct Employees	62,322	63,026	19,964	18,226
Indirect Employees (Non DBS)	289	313	107	91
Indirect Employees (DBS)	0	0	0	0
Transport Related	625	677	231	196
Unmet Demand Survey	6,000	0	0	0
Driver Assessments/Checks	0	6,321	0	1,839
Supplies and Services	8,004	8,678	2,958	2,512
Support Services	14,160	15,353	5,233	4,444
Management Overhead	19,959	21,642	7,376	6,264
Total Expenditure	111,357	116,011	35,867	33,572
Total Income	-108,490	-114,237	-34,658	-35,499
Total (Surplus) / Deficit	2,867	1,774	1,209	-1,927
Total Three-Year (Surplus) / Deficit	4,386	2,236	-1,257	415

Appendix 4 - Licence Fee Trading Accounts 2019-2022

Licence Fee - Three Year Accounts			
2019-20 Financial Year Actual			
CIPFA Standard Subjective	Sex Establishments	Street Trading (Legal)	Gambling Act
	£	£	£
Direct Employees	8,460	22,560	14,100
Indirect Employees	162	432	270
Transport	97	231	142
Supplies and Services	196	469	289
Support Services	10,680	25,514	15,724
Management Overheads	2,531	6,047	3,727
Total Expenditure	22,127	55,253	34,252
Total Income	-16,900	-57,453	-33,745
Total (Surplus) / Deficit	5,227	-2,200	507
2020-21 Financial Year Forecast			
CIPFA Standard Subjective	Sex Establishments	Street Trading (Legal)	Gambling Act
	£	£	£
Direct Employees	11,379	30,345	18,966
Indirect Employees	54	144	90
Transport	18	43	27
Supplies and Services	112	267	164
Support Services	8,635	20,629	12,713
Management Overheads	2,601	6,213	3,829
Total Expenditure	22,799	57,641	35,789
Total Income	-23,660	-57,400	-33,745
Total (Surplus) / Deficit	-861	241	2,043
2021-22 Financial Year Budget			
CIPFA Standard Subjective	Sex Establishments	Street Trading (Legal)	Gambling Act
	£	£	£
Direct Employees	11,607	30,952	19,345
Indirect Employees	55	147	92
Transport	18	44	27
Supplies and Services	114	272	167
Support Services	8,635	20,629	12,713
Management Overheads	2,653	6,338	3,906
Total Expenditure	23,082	58,381	36,250
Total Income	-24,150	-58,400	-34,570
Total (Surplus) / Deficit	-1,068	-19	1,680
Total Three-Year (Surplus) / Deficit	3,298	-1,979	4,230

Appendix 5 Current and Proposed Animal Activity Licensing Application Fees 2021/22

Current 2020/21 Fees

Licence Type	Current - New Applicants			Current - Renewals		
	Part A	Part B	Total	Part A	Part B	Total
Dog breeding (Dom)	£200.00	£130.00	£330.00	£180.00	£120.00	£300.00
Dog Breeding (Comm)	£230.00	£150.00	£380.00	£200.00	£130.00	£330.00
Dog Boarding (Dom)	£190.00	£125.00	£315.00	£160.00	£110.00	£270.00
Dog Boarding (Comm)	£230.00	£150.00	£380.00	£200.00	£130.00	£330.00
Cat Boarding	£210.00	£140.00	£350.00	£180.00	£120.00	£300.00
Dog Day Care	£210.00	£140.00	£350.00	£180.00	£120.00	£300.00
Exhibition of animals	£230.00	£150.00	£380.00	£200.00	£130.00	£330.00
Hiring horses	£250.00	£170.00	£420.00	£230.00	£150.00	£380.00
Pet vending	£200.00	£130.00	£330.00	£180.00	£120.00	£300.00

* where applicable

Variation / Transfer of Licence	£120.00
Appeals / site visit	Price on application

Proposed 2021/22 Fees

New Applicants					Renewals				
Part A	Part B	Proposed Total Fees	Increase	%	Part A	Part B	Proposed Total Fees	Increase	%
£204.00	£133.00	£337.00	£7.00	2.12%	£184.00	£122.00	£306.00	£6.00	2.00%
£235.00	£153.00	£388.00	£8.00	2.11%	£204.00	£133.00	£337.00	£7.00	2.12%
£194.00	£128.00	£322.00	£7.00	2.22%	£163.00	£112.00	£275.00	£5.00	1.85%
£235.00	£153.00	£388.00	£8.00	2.11%	£204.00	£133.00	£337.00	£7.00	2.12%
£214.00	£143.00	£357.00	£7.00	2.00%	£184.00	£122.00	£306.00	£6.00	2.00%
£214.00	£143.00	£357.00	£7.00	2.00%	£184.00	£122.00	£306.00	£6.00	2.00%
£235.00	£153.00	£388.00	£8.00	2.11%	£204.00	£133.00	£337.00	£7.00	2.12%
£255.00	£173.00	£428.00	£8.00	1.90%	£235.00	£153.00	£388.00	£8.00	2.11%
£204.00	£133.00	£337.00	£7.00	2.12%	£184.00	£122.00	£306.00	£6.00	2.00%

Vets Fees *

A recharge to the licensee of the cost to the Authority

£122.00	£2.00	1.67%
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LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

Agenda Item 17

Brighton & Hove City Council

Subject:	Statutory Taxi & Private Hire Vehicle Standards	
Date of Meeting:	26 November 2020	
Report of:	Interim Executive Director of Housing, Neighbourhoods & Communities	
Contact Officer:	Name: <i>Martin Seymour</i>	Tel: 29-6659
	E-mail: martin.seymour@brighton-hove.gcsx.gov.uk	
Wards Affected:	All	

FOR GENERAL RELEASE

SUMMARY AND POLICY CONTEXT:

1.1 It is proposed that the council implement the Statutory Taxi and Private Hire Vehicle Standards as soon as practicable.

2. RECOMMENDATIONS:

2.1 That the Council adopts the Statutory and Private Hire Vehicle Standards and Officers implement the Standards as soon as practicable.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 In July the Government published the Statutory Taxi and Private Hire Vehicle Standards (see appendix A). These Standards were published as there is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in 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 other investigations continue.

3.2 The Council already has many of the standards incorporated into the current Blue Book for Hackney Carriage & Private Hire, Drivers, Vehicles and Operators. The council plans to consult on any proposed changes to licensing policies and conditions and Officers are working on a new version (6Th Edition) of the Blue Book. Many of the recommendations are already in place, and may need refining, so consultation may

not be required. However, significant proposed changes to policies or new policies will require consultation.

- 3.3 The Policing and Crime Act 2017 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 harm when using these services. 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.
- 3.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.
- 3.4 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department’s Best Practice Guidance. This includes 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 Disclosure.
- 3.5 A major change is the frequency of DBS checks which are currently only carried out every 3 years. The Statutory Standard states; Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. 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. All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 3.6 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime. Enhanced DBS and barred list checks are not available for vehicle licensing. Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing

authorities should consider whether an applicant or licence holder with a conviction for offences meet the 'fit and proper' threshold.

- 3.7 Similarly, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime. Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder, meet the 'fit and proper' threshold.
- 3.8 In determining an application or taking action against a licence, decisions are investigated by officers and a recommendation is made to a manager who makes the decision in consultation with a lawyer. In addition, the most difficult matters would come to the Chair and to the two lead members for discussion and in some cases, applications are brought before a licensing panel.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

None

5. COMMUNITY ENGAGEMENT AND CONSULTATION

Consultation will take place with taxi trade representatives through the established working groups.

6. CONCLUSION

The draft statutory guidance is an attempt to formulate national minimum standards and the Government has encouraged all licensing authorities to publish their consideration of the recommendations.

7. FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications:

The costs in respect of officer time will be met from within the approved staffing budget and are covered by the relevant fee charged to the taxi trade.

Finance Officer Consulted: Name Michael Bentley Date: 29/09/20

7.2 Legal Implications: These are within the body of the report. If the Council wishes to depart from the standards it may do so provided there is justification which is set out and explained

Lawyer Consulted: Name Rebecca Sidell Date: 15/10/2020

7.3 Equalities Implications:

There are no impact assessments associated with this report.
The aim of any new policies would be to reduce the risk posed by licence holders to the travelling public, and to increase the confidence of the public that their taxi and private hire drivers can be trusted. Safeguarding children and adults at risk. Amongst the proposals are mandatory disability awareness, equality training and CSE safeguarding training for drivers.

7.4 Sustainability Implications:

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses boosting the local economy.

7.5 Any Other Significant Implications:

None

SUPPORTING DOCUMENTATION

Departments for Transports (DfT) recently published “Statutory Taxi and Private Hire Vehicle Standards



Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in 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 other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 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 harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes 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 Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 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 regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in 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.
- 2.8 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 justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in 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).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 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.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **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.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 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.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 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. 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. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more 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.

4. Gathering and Sharing Information

- 4.1 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.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 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. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; 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.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **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.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **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.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** 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.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **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.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. 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.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 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). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 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. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 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. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **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.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 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. 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.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that 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. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 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 (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **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.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 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. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 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. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 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.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 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 will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. 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. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 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. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **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.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 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. 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. This 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. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that 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 or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.