

Date of Meeting 18 November 2020

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Exemption applied: None

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The Statutory Taxi and Private Hire Vehicle Standards

Report summary:

To inform members of the Licensing Committee of the recently published 'Statutory Taxi and Private Hire Vehicle Standards' issued by the Department for Transport (DofT) and to consider recommendations to meet the requirements in conjunction with this Council's policy

Recommendation:

That a phased approach be considered for revising this Council's Taxi and Private Hire policy in consideration of the new Statutory Standards, therefore to seek approval from this Committee:

- a) To adopt key changes necessary under the new Statutory Standards by revising the current policy in the first phase by recommending to Council on 9 December 2020, to adopt the revised Taxi and Private Hire Policy with amendments shown at Appendix C, and
- b) That a detailed review be conducted by officers for further policy changes under a second phase with regard to matters of Vehicle Emissions, CCTV in vehicles, National Refusals Register, Fees and Safeguarding Training, and
- c) To review staffing that will be necessary to undertake the new and additional work, and
- d) To undertake full consultation before adopting the changes by 31 March 2022

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Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets
- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Financial implications:

Significant Officer time updating policies and records with the administration of DBS checks and Training for Licence Holders. Potential sanctions from Government if the draft standards have not been implemented

Legal implications:

The legal implications are explained within the body of the report

Equalities impact Low Impact

If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

Climate change Low Impact

Risk: Choose a risk level; Low

Links to background information Previous Reports to Licensing & Enforcement Committee September 2019, October 2019 and February 2020

Link to [Council Plan](#):

Priorities (check which apply)

- Outstanding Place and Environment
 - Outstanding Homes and Communities
 - Outstanding Economic Growth, Productivity, and Prosperity
 - Outstanding Council and Council Services
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Report in full

1 Main Body of the Report

- 1.1 It was reported at the last meeting of this committee that the Secretary of State for Transport had issued new Statutory Taxi and Private Hire Vehicle Standards to licensing authorities referred to as Statutory Standards. They set-out a range of robust measures to protect passengers, particularly those most vulnerable, with the expectation that licensing authorities implement the recommendations unless there is a compelling local reason for not doing so.
- 1.2 The Department for Transport expects licensing authorities' responses to the Statutory Standards by providing an update by the end of January 2021 and this report will assist in managing the response by this Council.
- 1.3 Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards and should publish their consideration of the measures in their policies. Any authorities not adopting the Standards will need to provide a rationale for failing to act to protect passengers.
- 1.4 One of the main requirements of the revised standards, is that licensing authorities should have a cohesive Taxi and Private Hire policy with a minimum review of every 5 years and as members of this Committee are aware, a comprehensive policy review was completed by this authority in 2017 which followed a full consultation of eight weeks before adoption. The existing policy is kept under review and changes in legislation or national procedures may not always require consultation for reasons of necessity to meet legal requirements.

2 Current Policy

- 2.1 Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 outline that a district council will not grant a licence to drive a private hire or taxi licence unless being satisfied that the applicant is 'fit and proper person' to hold a driver's licence.
- 2.2 Once granted, a licence holder will be required to maintain their ability to be a 'fit and proper person' while licensed and must report any driving offences, changes to medical conditions, civil or criminal offences for which they have been interviewed or charged to the licensing authority.
- 2.3 The current Taxi and Private Hire policy is used by the Committee, Officers, licensees and members of the public as a single point of reference and as the document is a working policy, it was recommended upon implementation that a full review and consultation with all stakeholders should occur by July 2022.

3 Proposed Policy changes

- 3.1 The Statutory Taxi and Private Hire Vehicle Standards sets out a framework of policies that, under section 177(4), licensing authorities must have regard to when exercising their functions with full document provided in **Appendix A**.
- 3.2 Paragraph 2.8 states 'although it remains the case that licensing authorities must reach their own decisions on overall policies and on individual licensing matters in conjunction with 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. Any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence if that were to be the case.
- 3.3 The expectation on licensing authorities to implement the measures outlined as soon as possible was reported in an interim briefing at the last meeting of this Committee. For ease and to avoid detailed commentary on every aspect covered in the Statutory Standards, a table detailing the full requirements with further updated comments in respect of them is provided at **Appendix B**.
- 3.4 Only those aspects that require further consideration by the Licensing Committee are detailed in this report. A brief summary has been included with regard to the present situation for this licensing authority that will require review, whether under consideration for immediate change shown at **Appendix C** and through a full consideration and review.
- 3.5 For that reason, it is recommended that the progress to adopt the Statutory Standards is considered in two phases, the first being those changes to be adopted in the policy by the end of the year and with phase two being a full review along with consulting on further changes.
- 3.6 To summarise the points in Appendix A that require further consideration by this authority are:
- a) Signing up to a national licensing database that allows secure information sharing on revoked or refused licence referred to as the '**NR3 Database**' (under points 6 and 7 Appendix A),
 - b) Driver criminality checks will require Disclosure and Barring Service (**DBS**) checks every six months being far more frequent than currently with an impact on officer time and licence holders (point 13),
 - c) **Safeguarding Awareness** briefing for licence holders; already being mandatory in our policy, the Covid-19 situation now requires new procedures for remote, virtual sessions currently being explored by all Devon authorities (under point 14),
 - d) DBS checking and increased frequencies for Private Hire despatch staff (under point 16),
 - e) **CCTV** and audio recording assessment and whether it is necessary in this district; this authority has been awaiting national guidance to this point. Prohibitive costs for licence holders need to be assessed against a specific need for mandating all vehicles (under point 17), and
 - f) Joint enforcement powers for officers with/from other districts and cities. This too has been previously assessed by this committee and may be more appropriate on the basis of when a need arises and will be progressed by the Devon Licensing Officer Group (under point 19).
 - g) That 'no licence will be issued to any individual that appears on either the children or adult barred lists.' This would be a current requirement given the risks of otherwise doing so.
 - h) Policy be amended to require a basic disclosure from the DBS and that a check is undertaken annually for private hire operators, coming into effect for all new applications and for licence and DBS renewals from January 2021 and all existing operators by 31 March 2022.
 - i) Policy be amended to require Private Hire Operators to hold a register of all the staff that will take bookings or dispatch vehicles to come into effect for all operators from 31 March 2022. That Private Hire Operators collect the following information as part of their records; the name of the driver; the name of any individual that responded to the booking request and the name of any individual that dispatched the vehicle.
 - K) Policy be amended to require Private Hire Operators to conduct DBS checks on all call handling and dispatching staff as well as to have a policy on employing ex-offenders. All records

must also be made available to the Licensing Authority upon request. It is proposed these conditions will come into effect for all operators from 31 March 2022.

- 3.7 That the Licensing Committee considers a policy review to start in 2021 to consider looking at further quality standards for both Hackney Carriage and Private Hire vehicles to consider such matters as CCTV, vehicle emissions, safeguarding training and reviewing licence fees charged.

4. Financial implications including resources.

- 4.1 Taxi and Private Hire Licensing fees set by the Council must meet the cost of delivering the licensing regime. Any increased costs arising from this report should be met from the fee structure including additional staffing time that will be necessary to meet increased processing.
- 4.2 Specifically, the proposal to subscribe to the NR3 National Register of Taxi and Private Hire Refusals and Revocations would entail set-up costs in the region of £2000 for the first year along with annual membership fees of £1050. The current fee structure would need to be reviewed in conjunction with increased staffing arrangements for checking new and current licensees. The DoT wrote to all licensing authorities in October outlining that 23% of all Councils have so far taken up membership and reiterating the expectation for others to do so in the future.
- 4.3 More frequent DBS checking under the proposal for nearly 200 licensed drivers twice yearly will create 390 transactions with the proposal to check staff working for Private Hire Operators increasing that number.
- 4.3 Safeguarding awareness sessions require the actual or virtual training being delivered by trainers specialising in that field with costs to be met by applicants when applying for their licence. Work is being done between the Devon authorities to seek best value for shared briefings for the most appropriate training.
- 4.4 The recommendation to considers an extensive under point 3.7 will facilitate the extent of work the be completed along with the costs to the Council and licence holders review to start in 2021 to consider looking at further quality standards for both Taxi and Private Hire vehicles to consider such matters as CCTV, vehicle emissions, safeguarding training and reviewing licence fees charged.

5. Next Steps

- 5.1 Licensing taxis and private hire is a higher risk licensing activity with the primary aim of the regime being to maintain public safety. In terms of passengers, the risk can be seen with regards to abuse, exploitation and sexual crimes and although no licensing authority can eliminate all risks entirely, by having a robust set of policies and by maintaining high licensing standards, it supports safeguarding and protecting the public using those services.
- 5.2 The Department for Transport (DoT) has expressed an expectation that licensing authorities meet compliance with the Statutory Standards with this Council already well placed through existing policy in many aspects. Whilst reference was made to 'compelling local reasons' for not implementing the measures, costs or additional work are unlikely to be sufficient and failure to adhere to the standards could be legally detrimental to any authority that does not meet them.
- 5.3 The approval of this Committee is sought to revise the existing Taxi and Private Hire policy as shown as **Appendix C**. The full list of amendments and changes would be progressed in 2021.

- 5.4 Recently increased reporting and other mandatory checking has increased the work of licensing staff with data submissions to DEFRA for emission levels of currently licensed vehicles and Right to Work checks of all new applicants. These mandatory checks were absorbed within current staffing in the team although the proposed additional work necessary by increasing DBS checks, conducting NR3 checks and co-ordinating safeguarding briefings will require a review of staffing that could be assessed in the early part of 2021 to establish requirements.
- 5.5 The recommendations for an immediate change to current policy along with a graduated review next year is considered necessary to enable this Council to properly cost, evaluate and consult stakeholders on taking this forward.