

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE INTERIM ASSISTANT DIRECTOR  
OF REGULATION AND ENFORCEMENT TO  
THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**NOVEMBER 2020**  
**ALL WARDS**

**DEPARTMENT FOR TRANSPORT:  
STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS  
ACHIEVING COMPLIANCE**

1 Summary

- 1.1 In July 2020 the Department for Transport published their long awaited Statutory Taxi and Private Hire Vehicle Standards document.
- 1.2 The statutory guidance was issued by the Secretary of State for Transport under powers conferred by the Policing and Crime Act 2017..
- 1.3 The guidance seeks to provide common core minimum standards to better regulate the taxi and private hire sector.
- 1.4 This report provides a comparison between the statutory guidance and the current position in Birmingham City Council, as well as proposed actions in order to bring us into alignment with the statutory guidance.

2. Recommendations

- 2.1 The report be noted.
- 2.2 The actions identified within Appendix 2 be agreed.
- 2.3 The action plan for compliance (Paragraph 8) be agreed.
- 2.4 Officers to provide progress updates to the Licensing and Public Protection Committee as appropriate.

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### 3. Background

- 3.1 The legislation providing for the licensing of the hackney carriage and private hire trade is very old. Town Police Clauses Act 1874 and Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 At the time the legislation was drafted, things were very different, not just in the world of passenger transport. One Act was passed before the popular introduction of the internet, and one before the introduction of mains electricity or the motor car.
- 3.3 The antiquated legislation, coupled with the variety of local policies and conditions introduced across the country has led to inconsistency of approach which, in turn, has led to an exploitation of loopholes or weaknesses in the system. It is this inconsistency the Department for Transport seeks to address in their guidance.
- 3.4 There have been many calls for root and branch review of the legislation, the most recent of which resulted in a commitment from Government to produce this guidance document. Save for the Deregulation Act 2015 which legalised the practice of 'cross border' hire, the legislation itself remains essentially unchanged since its enactment,

### 4. The Guidance

- 4.1 The Guidance sets out certain standards which Licensing Authorities are expected to comply with. : These standards have been drawn up as a result of discussions with the trade, regulators and safety campaign groups. They focus on protecting children and vulnerable adults.
- 4.2 Paragraph 1.3 of the document clearly states: **“The Department...expects these recommendations to be implemented unless there is a compelling reason not to do so.”** (emphasis added)
- 4.3 Compelling Reason?  
An example of a compelling reason not to comply with the recommendations would be,if our existing requirements are more stringent than those in the guidance. We would not be expected to lower our standards to achieve compliance.

### 5. The Road to Compliance

- 5.1 Appendix 1 is an annotated copy of the Statutory Guidance. For completeness, the entire document is included, but with the addition of a column to identify where there is a divergence between the guidance and the current position in Birmingham. A further column then indicates a proposal to remedy the situation
- 5.2 Some proposals will require a change in policy, indeed one of the main recommendations is the implementation of a standalone policy document which can be subject to regular review. Some require a change in internal processes within the licensing service and others will require an amendment to licence conditions.
- 5.3 Appendix 2 expands upon the information in Appendix 1 by indicating how the changes could be brought about.

## 6. The Changes

### 6.1 Policy:

As previously mentioned, one of the first proposals is to introduce a licensing policy document akin to those relating to other licensing areas such as alcohol and gambling. The Policies Procedures and Delegations Report is currently presented annually to the Licensing and Public Protection Committee which includes all of the hackney carriage and private hire policies. A standalone policy document would allow for a narrative introduction of the policy and would facilitate better communication of the policies and requirements.

6.2 Appropriate consultation is also included within the guidance. This includes a much broader church than just the licence holders themselves.

### 6.2 Criminal Record Checks

The Guidance requires all drivers to subscribe to the DBS (Disclosure and Barring Service) update service. This is a much easier system to comply with than the current requirements and will afford a greater reassurance as randomised checks can be carried out as well as the regular checks required.

6.3 The Guidance introduces the need for vehicle proprietors and operators to provide basic criminal records disclosures regularly (unless they are also licensed drivers, in which case the enhanced check will suffice).

### 6.4 Communication and Cooperation

There is much emphasis placed on the importance of clear advice and good communication between the licensing authority and the licence holders, and also the passengers.

6.5 The guidance stresses the importance of good communication between neighbouring authorities and other regulatory bodies such as the police. It also recommends the co-authorisation of officers from other authorities to enable enforcement action to take place effectively 'without borders.' This is something which has been considered before and can certainly be revisited.

6.6 The Guidance includes within its annexe, a list of proposals for determination of previous convictions. These replicate, to an extent those included within the document produced by the Institute of Licensing, which were accepted as best practice guidance by your Committee in June 2018

### 6.7 CCTV

The guidance recognises the need for local considerations to be made with regard to CCTV requirements, and rather than mandating CCTV be installed in all vehicles, instead requires a comprehensive consultation be carried out.

## 7 Remaining concerns

7.1 Whilst the document does contain some welcome clarity on dealing with licence applications for drivers, vehicle proprietors and operators, there are still some disappointing omissions in the document.

## 7.2 Vehicle standards

Contrary to what the title would suggest, there are no standards within the guidance which relate to the actual vehicles. No mention of emissions standards, age policies or signage.

7.3 These issues are amongst the most contentious of all in terms of local variances in standards.

7.4 Vehicle Standards are to be addressed in the revised DfT Best Practice Guidance.

## 8. Action Plan for Compliance

8.1 Many of the actions listed in Appendix 2 will require further work on the part of officers. Many will require consultation and further reports to be brought before the Committee, Cabinet Member or to City Council.

8.2 Officers will formulate the proposals into a single draft policy document. This will then go out to consultation and the results reported back to your Committee.

8.3 Internal processes identified will be commenced as soon as possible.

8.4 The information document for applicants and licence holders will be produced after the agreement of the draft policy. The information for passengers can be produced without delay.

## 9. Consultation

9.1 This report is essentially a position statement comparing the current policies and processes against the requirements of the statutory guidance.

9.2 There are certain proposals within the document which will require further work to be carried out and further reports to be brought before the Committee, Cabinet Member or to City Council.

## 10. Implications for Resources

10.1 The cost of administering the licensing service is recovered in full, from licence fees. A number of these proposals will lead to additional resource requirements, such as officer time, or the cost of external training providers, others will incur no additional resource requirement. Many will simply require a different way of working.

10.2 It is not therefore expected to have any significant effect on income or expenditure.

10.3 Mandatory subscription to the DBS update scheme will impact on the Occupational Health service who currently administer the DBS checks.

## 11. Implications for Policy Priorities

11.1 The Council's Vision and Priorities 2017-2020 document identifies four priorities for Birmingham namely: Children, Housing, Jobs and Skills, and Health. The recommendations in this report support the Council's main priorities at the highest level, in particular those for Health, Children, and Jobs and Skills.

## 12. Public Sector Equality Duty

12.1 Under the Duty we must have regard to the need to:

- Eliminate unlawful discrimination, harassment, and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

12.2 The recommendations contained in this report will not have any effect on any of our duties under the Equality Act 2010. Any future changes to policy as a result of this report will be subject to separate consideration of this duty.

12.3 For the reasons set out in paragraph 12.2, it is considered an initial Equality Analysis is not deemed appropriate or necessary.

## **INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers:



Department  
for Transport

APPENDIX 1

# Statutory Taxi & Private Hire Vehicle Standards

July 2020

# 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.

<h3>3.Administering the Licensing Regime</h3>		
<p><b>3.1 Licensing Policies:</b></p> <p><b>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.</b></p>	<p>Our Policies are available online but the communication of them could be improved.</p>	<p>A Single Cohesive Policy to be produced, containing all relevant information. Readily accessible online.</p>
<p>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 <a href="#">report by Dame Louise Casey CB</a> of February 2015 on safeguarding failings.</p>		
<p><i>“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.”</i></p>		
<p>3.3 The long-term devastation caused by CSAE was summarised in the same report:</p>		
<p><i>“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</i></p>		

<p><i>appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”</i></p>		
<p>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.</p>		
<p>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. <b>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.</b></p>	<p>Our current policies are regularly updates to reflect changes.</p>	<p>With the introduction of a standalone policy document, this could include a review period as suggested.</p>

<b>Duration of licences</b>		
<p>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.</p>		
<p>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.</p>	<p>Currently applicants have an option to choose one two or three year licences.</p>	<p>Move to a 'standard' 3 year driver licence.  Shorter duration by exception/ request</p>

Whistleblowing		
<p><b>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.</b> 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.</p>	<p>BCC HR procedures are in effect. No separate licensing process is in place.</p>	<p>Communicate existing procedures to all staff. Consider if further process is necessary</p>
<p>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.</p>		
<p>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 <a href="#">report</a> 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.”</p>		
<p>3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, <b>local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.</b> If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.</p>		<p>See 3.8</p>

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](#).

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<b>Consultation at the local level</b>		
<p>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.</p>	<p>Depending upon the subject, consultation tends to be with trade representatives and through BeHeard.although we do try to contact particular groups who may be affected.</p>	<p>Devise a suitable clear consultation process for all matters according to the impact of the proposals.</p>
<p>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 <b>licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.</b> Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.</p>	<p>We currently have good links with both the Regional Taxi Licenising Forum and also the Neighbouring Authorities Working Group, although we do not specifically consult with them on matters.</p>	<p>neighbouring authorities will be included in the consultation process per 3.12 above.</p>

Changing licensing policy and requirements		
<p>3.14 Any changes in licensing requirements should be followed by a review of the licences already issued. <b>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.</b></p>	<p>Previous legal advice has been that we cannot retrospectively apply conditions to licences already granted.</p> <p>This is still technically the case, but in certain compelling circumstances it may still be possible.</p>	<p>This will be considered and included as part of any policy proposal going forward.</p>
<p>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.</p>		

<h2>4 Gathering and Sharing Information</h2>		
<p>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.</p>		
<h3>The Disclosure and Barring Service</h3>		
<p>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.</p>		
<p>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 <a href="#">DBS</a>. 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 <a href="#">statutory guidance</a> issued by the Home Office when considering disclosure. A summary of the information</p>		

<p>provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).</p>		
<p>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.</p>		
<p><b>The Disclosure and Barring Service Update Service</b></p>		
<p>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.</p>	<p>We currently require a DBS every 3 years.</p> <p>We do not REQUIRE licence holders to subscribe to the Update Service.</p>	<p>Require compulsory subscription to the update service.</p>
<p>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.</p>		
<p>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</p>		

make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the <a href="#">DBS</a> .		
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.		
<b>Common Law Police Disclosure</b>		
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. <b>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.</b>	We already have good links with the Disclosure Team withing West Midlands Police.	Review the Information Sharing Protocols for appropriateness.

<b>Licensee self-reporting</b>		
<p>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.</p>	<p>Currently licence holders are required to disclose matters within 7 days</p>	<p>Reduce this to 48 hours.</p>
<p>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.</p>		

Referrals to the Disclosure and Barring Service and the Police		
<p><b>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 <a href="#">DBS</a>.</b></p>	<p>This is not routinely done at the moment</p>	<p>To be included in reports for matters to be determined.</p> <p>i.e. Is a referral to DBS appropriate in these circumstances. Yes/no etc</p>
<p>4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:</p>		
<p>an individual has harmed or <u>poses a risk</u> of harm to a child or vulnerable adult;</p> <ul style="list-style-type: none"> <li>• an individual has satisfied the '<a href="#">harm test</a>'; or</li> <li>• received a caution or conviction for a relevant offence and;</li> <li>• the person they are referring is, has or might in future be working in regulated activity;</li> <li>• if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.</li> </ul>		
<p>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 <a href="#">available</a>.</p>		

<b>Working with the Police</b>		
<p>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, <b>action taken by the licensing authority as a result of information received should be fed-back to the police.</b> Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on nonconviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.</p>	<p>This does not happen as a matter of course.</p>	<p>Actions taken as a result of information disclosed will be reported back to the police.</p>
<p>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.</p>		
<p>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.</p>		

Sharing licensing information with other licensing authorities		
<p>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. <b>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.</b></p>	This is already a requirement	No action required
<p>4.21 The LGA’s Councillors’ <a href="#">Handbook on taxi and private hire vehicle licensing</a> advises that those responsible for licensing should “<i>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 decisionmaking. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.</i>”. 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’). <b>Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of nondisclosure of relevant information by applicants.</b></p>	We do not currently subscribe to NR3	We will commence the processes required for subscribing to NR3 and include the checking of NR3 in the licence process.
<p>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.</p>		

<p>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 <a href="#">guidance</a> to assist organisations to fully understand their obligations and suggest good practice.</p>		
<p>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.</p>		
<p>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’.</p>		

<p><b>Multi-agency Safeguarding Hub (MASH)</b></p>		
<p>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.</p>		
<p>4.27 The Home Office report on <a href="#">Multi Agency Working and Information Sharing</a> recommended that effective multi-agency working still needs to become more widespread. The Children’s Commissioner’s 2013 <a href="#">Inquiry into Child Sexual Exploitation in Gangs and Groups</a> 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.</p>		
<p>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.</p>	<p>We currently have good links with the MASH, as well as with the LADO team. We have provided training for them on what we do and what / how to report to us. Meetings have ceased due to Covid.</p>	<p>Make contact / Refresh the training as necessary.</p>

<b>Complaints against licensees</b>		
<p>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. <b>All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.</b> 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.</p>	<p>Currently the complaints management database is separate to the licensing system. We have recently successfully procured a single service solution which will be implemented in the coming months.</p>	<p>None required.  (Continue with move to new system)</p>
<p>4.30 <b>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).</b> 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.</p>	<p>The current system allows for officers to see the licence history to follow up as appropriate. The new system will also have this functionality.</p>	<p>None required.  (Continue with move to new system)</p>
<p>4.31 <b>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.</b> 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. <b>An effective partnership in which operators can share concerns regarding drivers is also encouraged.</b></p>	<p>Currently the licenising service contact details are on the reart of the internal licence plate, and on the exterior plate. Operator conditions set minimum standards for their complaints management systems and requires certain complaints to be disclosed to the Licensing Service.</p>	<p>Consider alternative methods of displaying contact details in the vehicles in a meaningful/useful manner. Inreroduce guidance for passengers.</p>

<p>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.</p>		
<p>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.</p>		

<b>Overseas convictions</b>		
<p>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</p>		
<p>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 <a href="#">guidance</a>.</p>	<p>We already require a Certificate of Good Conduct, or, where this not possible, a Statutory Declaration may be accepted.</p>	<p>None</p>
<p>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.</p>		

<b>5. Decision Making</b>		
<b>Administration of the licensing framework</b>		
<p>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.</p>		
<p>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.</p>		

Training decision makers		
<p>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.</p>	<p>We have recently strengthened the training requirements for Committee Members to ensure the broad spectrum of matters is covered.</p>	<p>Continue with the training programme, ensuring the relevant matters are addressed and training is up to date and appropriate</p>
<p>5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:</p> <ul style="list-style-type: none"> <li>• policies should be used as internal guidance, and should be supported by a member/officer code of conduct.</li> <li>• any implications of the Human Rights Act should be considered.</li> <li>• the rules of natural justice should be observed.</li> <li>• decisions must be reasonable and proportionate.</li> <li>• where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.</li> <li>• decision makers must avoid bias (or even the appearance of bias) and predetermination.</li> <li>• data protection legislation.</li> </ul>		
<p>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</p>		

<p>or votes and, once declared, they must leave the room for the duration of the discussion or vote.</p>		
<p>5.6 It is recommended that councils operate with a <b>Regulatory Committee</b> 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.</p>	<p>This is constitutionally different to the Committee set up to dispose of LA2003/GA2005 matters, but utilises the same members.</p> <p>Currently, owing to the COVID-19 pandemic response, the majority of HCPH matters are delegated to a senior officer. This is reflected in the scheme of delegations.</p>	<p>Constitution is being amended to reflect the difference in the 2 types of Committee.</p>

<p><b>The Regulatory Structure</b></p>		
<p>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:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul>		
<p>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.</p>		
<p>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.</p>		

<p>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.</p>	<p>The officer this responsibility is currently delegated to does not deal with the enforcement/compliance team Nor do they deal directly with the licensees in normal circumstances.</p>	<p>The delegations are due to be reviewed at a later date.</p>
<p>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, <b>all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.</b> It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.</p>	<p>Currently immediate suspension or revocation matters are determined in consultation with the Chair Of Licensing and Public Protection.</p>	<p>Consider whether the immediate sus/rev can be delegated to a senior officer as per the recommendations.</p>

<p><b>Fit and proper test</b></p>		
<p>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:</p> <p><b>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?</b></p>	<p>This is already the test applied.</p>	
<p>5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.</p>		
<p>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. <b>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.</b></p>		<p>This will be reiterated in the content of reports.</p>

<b>Criminal convictions and rehabilitation</b>		
<p>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.</p>	<p>Previously the IoL Guidance had been accepted as good practice.</p>	<p>The limits proposed in the Annex are to be incorporated into the Licensing Policy</p>
<p>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.</p>		
<p>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.</p>		

<h2>6. Driver Licensing</h2>		
<h3>Criminality checks for drivers</h3>		
<p>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 <a href="#">survey of taxi and private hire vehicle licensing authorities</a> shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.</p>		
<p>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.</p>	<p>See above re: DBS update</p>	
<p>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. <b>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.</b> 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.</p>		<p>To be made explicit in the policy document</p>
<p>6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the <a href="#">Safeguarding Vulnerable Groups Act</a></p>	<p>Education transport / Home to school transport does not fall</p>	

<p><a href="#">2006</a>. It is an offence to knowingly allow a barred individual to work in regulated activity. The <a href="#">guidance on home-to-school travel and transport</a> issued by the Department for Education should be considered alongside this document. Please see <a href="#">guidance</a> on driver DBS eligibility and how to apply.</p>	<p>within the remit of the Licensing Service</p>	
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<p><b>Safeguarding awareness</b></p>		
<p>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.</p>		
<p>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:</p> <ul style="list-style-type: none"> <li>• provide a safe and suitable service to vulnerable passengers of all ages;</li> <li>• recognise what makes a person vulnerable; and</li> <li>• understand how to respond, including how to report safeguarding concerns and where to get advice.</li> </ul>	<p>We do have a safeguarding training package</p>	<p>Review the training and ensure it remains appropriate</p>

<p>6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – ‘<i>Together, we can tackle child abuse</i>’ 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 <a href="#">online toolkit</a>, for local authorities, charities and organisations for use on their social media channels.</p>		
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<p><b>‘County lines’ exploitation</b></p>		
<p>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”.</p>		
<p>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.</p>		
<p>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.</p>		

<p>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:</p> <p>Children and young people travelling in taxis or private hire vehicles alone;</p> <ul style="list-style-type: none"> <li>• travelling at unusual hours (during school time, early in the morning or late at night);</li> <li>• travelling long distances;</li> </ul>	<p>We do have a safeguarding training package</p>	<p>Review the training and ensure it remains appropriate</p>
<ul style="list-style-type: none"> <li>• unfamiliar with the local area or do not have a local accent;</li> <li>• paying for journeys in cash or prepaid.</li> </ul>		
<p>6.12 The Home Office is working with partners to raise awareness of county lines and has provided <a href="#">material</a> to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.</p>		
<p>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:</p> <ul style="list-style-type: none"> <li>• use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;</li> <li>• call Crime Stoppers on 0800 555 111.</li> <li>• Language proficiency</li> </ul>	<p>We do have a safeguarding training package</p>	<p>Review the training and ensure it remains appropriate</p>

<p>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.</p>	<p>The Knowledge Test (both HC and PH) include an element of communication in English. Candidates who are not proficient in English will not pass the test.</p>	
<p>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.</p>	<p>See above</p>	

<h2>7. Vehicle Licensing</h2>		
<p>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.</p>		
<h3>Criminality checks for vehicle proprietors</h3>		
<p>7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. <b>Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.</b> Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). <b>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.</b></p>	<p>We do not currently require a basic disclosure</p>	<p>Introduce this requirement, subject to the following paragraphs (re: companies etc)</p>
<p>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</p>		

<p>individual cease to hold a driver licence a basic certificate should be required immediately.</p>		
<p>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.</p>		
<p>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.</p>		
<p>7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be consider where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).</p>		

<b>In-vehicle visual and audio recording – CCTV</b>		
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: <ul style="list-style-type: none"> <li>• deterring and preventing the occurrence of crime;</li> </ul>		
<ul style="list-style-type: none"> <li>• reducing the fear of crime;</li> <li>• assisting the police in investigating incidents of crime;</li> <li>• assisting insurance companies in investigating motor vehicle accidents.</li> </ul>		
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.	We do not currently mandate CCTV in all vehicles, although it is permitted to be installed.	Carry out consultation as described
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 <a href="#">Crime Survey for England and Wales</a> only 17 percent		

<p>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.</p>		
<p>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.</p>		
<p>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.</p>		
<p>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).</p>		<p>If implemented, any condition must be kept under regular review.</p>

<b>Stretched Limousines</b>		
<p>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.</p>	<p>We do currently licence stretched limousines</p>	
<p>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.</p>		

<h2>8. Private Hire Vehicle Operator Licensing</h2>		
<p>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.</p>		
<h3>Criminality checks for private hire vehicle operators</h3>		
<p>8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. <b>Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.</b> 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.</p>	<p>We do not currently require a basic disclosure</p>	<p>Introduce this requirement, subject to the following paragraphs (re: companies etc)</p>
<p>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</p>		

<p>considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately</p>		
<p>8.4 Refusal to license in 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.</p>		
<p>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.</p>		
<p>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.</p>		

<b>Booking and dispatch staff</b>		
<p>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.</p>		
<p>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. <b>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.</b></p>	<p>This is a requirement of the Operator Conditions already</p>	
<p>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 <a href="#">'responsible organisation'</a> 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.</p>	<p>This is not currently a requirement</p>	<p>This will require an amendment to the licence conditions.</p>
<p>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</p>		

<p>later re-entered, a new basic DBS certificate should be requested and sight of this recorded.</p>		
<p>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.</p>		
<p>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.</p>	<p>This is not currently a requirement</p>	<p>This will require an amendment to the licence conditions.</p>

<b>Record keeping</b>		
<p>8.13 <b>Section 56 of the <u>Local Government (Miscellaneous Provisions) Act 1976</u> 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.</b> Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:</p>		
<p>the name of the passenger;</p> <ul style="list-style-type: none"> <li>• the time of the request;</li> <li>• the pick-up point;</li> <li>• the destination;</li> <li>• the name of the driver;</li> <li>• the driver’s licence number;</li> <li>• the vehicle registration number of the vehicle;</li> <li>• the name of any individual that responded to the booking request;</li> <li>• the name of any individual that dispatched the vehicle.</li> </ul>	<p>This information is already required by our conditions</p>	
<p>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 <b>six months</b>.</p>	<p>We require this information be retained for 12 months</p>	

<p>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.</p>		
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<p><b>Use of passenger carrying vehicles (PCV) licensed drivers</b></p>		
<p><b>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.</b> 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.</p>	<p>This is already part of our operator conditions</p>	
<p>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, <b>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.</b></p>	<p>This is already part of our operator conditions</p>	

<h2>9. Enforcing the Licensing Regime</h2>		
<p>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.</p>		
<p><b>Joint authorisation of enforcement officers</b></p>		
<p>9.2 Licensing authorities should, where the need arises, jointly authorises 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 <a href="#">LGA Councillors' handbook</a>.</p>	<p>We have explored this before. There are issues concerning the financing of such arrangements</p>	<p>Revisit the proposal with colleagues from neighbouring authorities.</p>

<b>Setting expectations and monitoring</b>		
<p>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.</p>	<p>We currently include all relevant information on the website but it could and should be more easily accessible.</p>	<p>Produce a clear package of information for all licence holders and applicants.</p>
<p>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.</p>	<p>See 9.3</p>	<p>See 9.3</p>

<p><b>Suspension and revocation of driver licences</b></p>		
<p><b>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: -</b></p> <p>that he has since the grant of the licence—</p> <p>been convicted of an offence involving dishonesty, indecency or violence; or</p> <p>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;</p> <p>(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or</p> <p>(b) any other reasonable cause</p>		
<p>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. <a href="#">Guidance for licensing authorities</a> 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.</p>		
<p>9.7 <b>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.</b> If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.</p>	<p>This is already the process. Although matters may be heard in absence in the event of no response/non attendance</p>	

<p>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.</p>		
<p>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.</p>		
<p>9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed though 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.</p>		

## 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 <sup>1</sup>	Yes	Yes	Yes	Yes
Spent convictions <sup>2</sup>	No	Yes	Yes	Yes
Spent cautions <sup>1 &amp; 2</sup>	No	Yes	Yes	Yes
Additional police Information <sup>3</sup>	No	No	Yes	Yes
Barred list(s) Information <sup>4</sup>	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 of 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.

## Actions Summary

## APPENDIX 2

Paragraph	Actions/ Proposals	Comment
3.1 (3.5)	A Single Cohesive Policy to be produced, containing all relevant information. Readily accessible online. Regularly reviewed (3.5)	Policy
3.7	Move to a 'standard' 3 year driver licence. Shorter duration by exception/ request	Policy
3.8	Whistleblowing - Communicate existing procedures to all staff. Consider if further process is necessary	Internal process
3.12 (3.13)	Consultation: Devise a suitable clear consultation process for all matters according to the impact of the proposals. Including neighbouring Authorities (3.13)	Policy
3.14	Consider appropriateness of retrospective application of new policies.	Policy.
4.5 (6.2)	Require compulsory subscription to the DBS update service.	Policy. This will be a much more efficient and reliable process. There will be an impact on the Occupational Health Service who currently deliver this function.
4.11	Review the Information Sharing Protocols with the Police for appropriateness	Internal – officers.
4.12	Reduce deadline for reporting incidents/issues to 48 hours from 7 days	Conditions.
4.14	Ensure matters of concern are reported to DBS	Internal process to be introduced.
4.17	Actions taken as a result of information disclosed by the police will be reported back to the police.	Internal process to be introduced
4.21	We will commence the processes required for subscribing to NR3 and include the checking of NR3 in the licence process.	Internal processes, including contacting affected individuals.
4.28	Maintain good links with MASH teams	Internal process. Make contact again, refresh training where appropriate
4.29	Robust system for recording complaints	Continue with replacement of licensing systems to a single solution.
4.31 (9.4)	ensure that passengers know who to complain to, licensing authorities should produce guidance for	Internal – Produce Guidance/information for passengers on the safe use of licensed vehicles

	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	Conditions – Review the appropriateness of current requirement concerning signage within the vehicles in the event of a complaint.
5.3	Comprehensive training for decision makers	Internal process - Continue with the training programme, ensuring the relevant matters are addressed and training is up to date and appropriate
5.6 (5.10)	Discharge of HCPH Licensing functions. This is constitutionally different to the Committee set up to dispose of LA2003/GA2005 matters, but utilises the same members. Currently, owing to the COVID-19 pandemic response, the majority of HCPH matters are delegated to a senior officer. This is reflected in the scheme of delegations.	Internal- Constitution is being updated to ensure the differences are appropriately referenced. Current delegated arrangements to be reviewed in accordance with the Committee decision in May 2020.
5.11	Consider whether the immediate suspension or revocation (in the interests of public safety) can be delegated to a senior officer as per the recommendations.	Licensing & Public Protection Committee Delegations matter.
5.14	Ensure <u>an applicant or licensee should not be 'given the benefit of doubt'</u> . 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.	Internal Process – to be included in the content of reports for decision.
5.15	Adopt the Department for Transport recommendations on the assessment of previous convictions.	Policy.
6.6 6.11 6.13	Review the current safeguarding training to ensure it remains fit for purpose	Internal process.
7.2, 8.2	Require a basic disclosure from the DBS and that a check is undertaken annually for vehicle proprietors (7.2)and PH Operators (8.2)	Policy
7.9	CCTV All licensing authorities should consult to identify if there are local circumstances which indicate	Officers to carry out the consultation and report back to Licensing and Public Protection Committee. (Potentially Policy)

	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	
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.	Conditions
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	Conditions
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	Internal Process – officers to progress with neighbouring authorities where appropriate.
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	Internal process - Produce a clear package of information for all licence holders and applicants. Links to (3.1)(4.31)(9.4)