

REPORT TO LICENSING COMMITTEE



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PORTFOLIO	Environment
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Department for Transport Statutory Taxi & Private Hire Vehicle Standards

PURPOSE

- To provide the Committee with an overview of actions required to deliver compliance with the Department for Transport (DfT) 'Statutory Taxi and Private Hire Vehicle Standards' and seek Committee approval of the proposals.

RECOMMENDATION

- That the Committee approves the report with or without amendments.

REASONS FOR RECOMMENDATION

- On 21st July 2020, the DfT published 'Statutory Taxi and Private Hire Vehicle Standards'. (The DfT Standards). The DfT Standards are applied to local authorities having regard to the Policing and Crime Act 2017 which enables the Secretary of State for Transport to issue statutory guidance to local authorities as to how taxi and private hire licensing should be undertaken to protect children and vulnerable adults when using taxis and private hire vehicles.
- A link to the DfT Standards is provided in Background Papers. The Council will need to review its hackney carriage and private hire policies and procedures so that as a minimum they meet The DfT Standards but any local standards must be appropriate for Burnley Borough Council's local needs, and the Council will need to be transparent in explaining the reason for the standards it adopts.

SUMMARY OF KEY POINTS

- The DfT Standards categorises taxis (hackney carriages) and private hire vehicles as a high risk environment in terms of risk to passengers and makes reference to problems of abuse and exploitation seen in recent years. The focus of the DfT standards is on protecting children and vulnerable adults, and states that all passengers will benefit from the recommendations contained within it.

6. The Standards make no reference to driver safety. However, officers see that the reviewing of policies and procedures to reflect DfT standards offers the opportunity to explore measures that can be implemented to support driver safety. Having regard to the standards, Appendix A outlines the subject areas covered by the standards and notes reflecting the current position regarding the same.
7. In its letter to local authorities introducing the Standards, the DfT made it clear that local authorities are expected to act upon the standards without delay. However, since the publication of the standards on 21st July 2020 there has been an upturn in cases of COVID 19 infections both at a local and national level. In July, it was hoped that the economy was on the verge of commencing recovery and the aspiration was that businesses may be returning to some form of normality. However, more recently it has become clear that this is not the case and more restrictions have been placed on businesses and individuals. Councils have a key role to play both in terms of enforcing the COVID 19 restrictions and supporting local communities. Resources to develop and implement new taxi policies may be restricted, as may be communities' ability to respond to consultations on any draft proposals.
8. The original intention was to include an estimated time-line for the development and implementation of each element of the standards. However, due to the uncertainties brought about by the pandemic, the proposal is that an update of the progress of the review work will be brought to Committee alongside matters for decision. This will ensure that the Committee is kept updated on progress and that regular updates can be provided to the DfT as required. Those parts of the DfT guidance that relate to DBS checks have been prioritised, and will be the subject of an early report to Members.
9. In conclusion:
 - The DfT standards are prescriptive as to the measures local authorities are expected to have in place regarding taxi and private hire vehicle licensing and are clear that these measures are driven by requirements in relation to the protection of vulnerable persons.
 - Current practices already meet some of the standards prescribed by the DfT, however, other elements will require a review of policies and procedures.
 - The current pandemic creates a degree of uncertainty as to how quickly work can be undertaken and finalised in respect of the changes required. The proposal to provide periodic updates to Committee ensures that members are kept informed of progress and similarly the DfT can also see the progress being made.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

10. There are no financial implications in respect of this report. However, compliance with the DfT standards will require a significant amount of officer time and may result in policies and practices that incur additional costs to the licensing regime e.g. additional training for officers and members. Any additional costs arising from the implementation of The Standards will potentially lead to an increase in fees levied to the trade.

There is also the potential for challenges by the trade to any change in policy that are brought in. Such challenges may incur legal costs to defend.

POLICY IMPLICATIONS

- 11 The DfT standards are not legislation. However, para 1.3 of the standards states, *'The Department (for Transport) expects these recommendations to be implemented unless there is compelling local reason not to'*.

The document makes it clear that the standards have been developed as a result of past failings of licensing regimes and makes reference to both the Jay and Casey reports and lists several local authorities where taxi licensing policy and practices had failed to offer the necessary protection of children.

The duty is a *'have regard'* duty. This means that the Council must take the standards into account and must give clear reasons for departing from policy.

DETAILS OF CONSULTATION

12. David Talbot - Senior Solicitor
Emma Barker – Principal Legal Officer – Litigation
Taxi Task Group Trade Representatives
Chair of Licensing Committee
Vice Chair of Licensing Committee

BACKGROUND PAPERS

13. [Statutory & Best Practice Guidance for taxi and PHV licensing authorities \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

FURTHER INFORMATION

PLEASE CONTACT:

James Astin

ALSO:

Lisa Tempest

DfT Statutory Taxi & Private Hire Vehicle Standards - Burnley Borough Council`s Position

DfT Standard	Existing Position & Action Necessary to meet DfT Standard
1. Introduction	No specific actions at this stage.
2. Consideration of the Standards	
2.2 Educating the public of safe usage of taxis and private hire	The Council already works closely with other local authorities, and the local hospitality sector via BAND & PubWatch. Links can be strengthened with public transport providers, colleges & universities, other agencies. Advisory materials relating to the safe use of taxis and private hire vehicles are available.
2.8 Requires the Council to publish consideration of the standards and policies and deliver plans that stem from the standards.	This will primarily be delivered through regular progress reports to Licensing Committee. Any policy changes will be determined by Committee. All will be public documents and available to the DfT.
3. Administering the Licensing Regime	
3.1 Recommends that licensing authorities produce and make available a comprehensive Taxi Licensing Policy document.	It is recognised that this has been done in a number of local authorities and ensures that all parties are aware of the standards, policies and procedures in place. It is envisaged that such a document would be finalised at the end of the review process when all relevant policies/procedures/standards have been reviewed.
3.2 – 3.5 The primary and overriding objective of the policy referred to (3.1of the standards) must be to protect the public.	This is accepted. However, any review of policy and procedures should also include consideration of driver safety. It is accepted that policies should be reviewed in accordance with the time periods stated in the standards, however, advice and guidance should be sought from the relevant agencies (including DfT) as to how reviews can be fully effective when licences are issued for 3 and 5 year period and conditions can only be applied on the grant of a licence.
3.6 Use of Common Law Police Disclosure powers.	Information sharing agreements are in place with Lancashire Constabulary. These will be reviewed to ensure they are up to date.
3.8 - 3.11 Licensing Authorities to have a whistleblowing policy.	A review of the Council’s whistleblowing policy will be undertaken to ensure the policy meets the requirements of the DfT standards.
3.12 – 3.13 Consultation at local level.	Consultation on proposed changes will be undertaken in accordance with the standards and the Government ‘Code of Practice on Consultation’ 2008. However, consultation will require a review to ensure that in addition to trade representatives other agencies are included. Consultation will need to have regard to any unique circumstances that exist at the time. For example, those presented by the pandemic, accessibility, conflicting demands on peoples time etc.

3.14 – 3.15 Any change in licensing policy to be followed by a review of all licences already in force	This requirement has become standard practice amongst authorities who have undertaken detailed reviews of taxi policies and standards including Rochdale and Rotherham Councils. Burnley Council has also carried out systematic reviews of licences following policy changes. Appropriate reviews would continue to be undertaken once the policy changes have been implemented.
4. Gathering & Sharing Information	
4.2 – 4.8 Disclosure and Barring Service	The Council is largely compliant with the DfT standards outlined. However, subscription to the DBS update service is not a mandatory requirement and the multiple status check facility is not currently utilised. These will be considered as part of the review.
4.9 – 4.11 Common Law Police disclosure.	Arrangements are in place and appear to work functioning well. However, these will be reviewed to ensure they continue to be effective.
4.12 – 4.13 Licensee self-reporting.	To meet the DfT standards, this will need to be reviewed via the taxi/private hire licensing conditions
4.14 – 4.16 Referrals to the DBS and Police.	Procedures will need to be formalised and adopted in terms of referring relevant decisions to refuse or revoke a licence to the DBS. This work will be undertaken as a priority and reported to the Committee at the next update on this matter.
4.17 – 4.19 Working with the Police.	Processes for sharing information in respect of revocations/refusals on public safety grounds following intelligence received from the Police is already undertaken as a matter of routine.
4.20 – 4.25 Sharing information with other licensing authorities.	Applicants are already required to disclose if they have previously had licences refused/suspended/revoked by another local authority. Burnley Borough Council is currently signed up to the NAFN NR3 register. Data protection issues have delayed the full implantation of this service which has also been affected by the pandemic. This remains a priority and Licensing Officers will review the systems in place in terms of recording refusals/revocations/suspensions and report to the Committee at the next update on this matter.
4.26 – 4.28 Multi Agency Safeguarding Hub (MASH).	The Council will review arrangements in place with partnership agencies to ensure decisions are made having the fullest knowledge in respect of safeguarding issues.
4.29 – 4.33 Complaints about licensees.	The Council's electronic licensing system allows for taxi/private hire complaints to be recorded against the licensee's record, appears to meet most of the requirements of the DfT standards. Information in respect of the complaints process being displayed on the website and on display in vehicles will require further consideration
4.34 – 4.36 Overseas Convictions.	The Council will ensure that the Licensing Policy documents the procedure/policy in respect of foreign convictions/certificates of good conduct.
5. Decision Making	
5.1 – 5.2 Administration of the Licensing Framework.	The administration of the Licensing Framework is compliant with that detailed in this part of the DfT standards.
5.3 – 5.5 Training decision makers.	Training is undertaken on a regular basis. However, this will be reviewed to ensure all relevant officers and members are fully trained in the relevant subject areas and that all such training is documented.
5.6 – 5.11 The regulatory structure.	The regulatory structure currently adopted by the Council appears to be compliant with that detailed in this part of the DfT standards.
5.12 – 5.14 Fit and Proper Test.	Procedures appear to be compliant with those outlined in this part of the DfT standards.
5.15 – 5.17 Criminal convictions and	The Council has already implemented a conviction policy document referred to on para. 5.16 Of the standard. This will be reviewed against the Annex –

rehabilitation.	Assessment of Previous Convictions contained within the DfT standards. This will be undertaken as a priority.
6. Driver Licensing.	
6.1 – 6.4 Criminal checks for drivers.	The Council is largely compliant with paras. 6.1 – 6.3 of the DfT standards. Except for the recommended 6 monthly DBS checks for new information. Although it is recommended drivers subscribe to the service, it is not a mandatory Licensing requirement at Burnley Borough Council for applicants to show evidence of continuous registration with the DBS update service to enable routine checks for new information every 6 months. The administration of this process will need to be reviewed. Para. 6.4 (home to school travel and transport) would be a matter for consideration by Lancashire County Council.
6.5 – 6.7 Safeguarding awareness.	The safeguarding awareness training is a mandatory requirement for all potential driver applicants and forms an essential part of the application process. It is part of the 'fit & proper' test and an applicant would not be considered for the grant of a licence without showing evidence they had successfully attended a recognised safeguarding awareness course. As part of the overall review of licensing policies and procedures, the driver training program will be reviewed to ensure it includes all subject areas that promote passenger, public and driver safety.
6.8 – 6.13 County lines exploitation.	As detailed above, driver training programs are to be reviewed to ensure all areas relevant to passenger, public and driver safety are included in driver training and assessment.
6.14 – 6.15 Language proficiency.	The Council is confident that its basic skills and driver knowledge test meets DfT standards.
7. Vehicle Licensing	
7.2 – 7.6 Criminality checks for vehicle proprietors.	The review will look to introduce basic DBS checks for vehicle proprietors, as a priority. The majority of licenced vehicle proprietors are also licenced drivers and are therefore already subject to enhanced DBS disclosure.
7.7 – 7.13 CCTV.	The relevant considerations regarding the mandating of CCTV in licenced vehicles is detailed in the standards. The standards do not refer to the protection that CCTV may offer the driver as well as the passenger. Nor do they refer to the applicable Data Protection legislation that the Council will be required to comply with if CCTV in licenced vehicles was a mandatory requirement. The Council has previously considered mandating a CCTV system, but was unable to justify it, in terms of ICO guidance. This will be revisited as part of the review process.
7.14 – 7.15 Stretch limousines.	The Council has not recently been approached regarding applications to licence stretch limousines as private hire vehicles. A policy on this issue will be included within the finalised taxi policy. (ref para. 3.1 of the standards)
8. Private Hire Vehicle Operator Licensing.	
8.2 – 8.6 Criminality checks.	The Council currently requires a basic DBS disclosure for all private hire operators on submission of an application. The DfT standards require this to be done on an annual basis. It is acknowledge that the majority of private hire operators are also licenced drivers and are therefore subject to enhanced DBS disclosure. However, the submission of DBS disclosure on an annual basis as recommended by the DfT standards will introduced as a priority
8.7 – 8.12 Booking and dispatch staff.	The DfT standards recommend that all booking and dispatch staff should be subject of annual basic DBS disclosure The Council's operator licence conditions current place a responsibility on the

	<p>operator to ensure that all booking and dispatch staff are subject to basic DBS disclosure.</p> <p>It is also acknowledged that most individuals who undertake this role are licenced drivers who are already subject to enhanced DBS disclosure.</p> <p>To comply fully with the DfT standards, it is envisaged that the current conditions will need to be revised to address the matters highlighted in this section of the standards document.</p>
8.13 – 8.15 Record keeping.	Much of this information is already required to comply with the operator licence conditions and will be updated, if necessary, as part of the review of licence conditions.
8.16 – 8.17 Use of passenger carrying vehicles (PVC).	This will be reviewed as the requirements of the standards are not currently addressed in the private hire operator licence conditions.
9. Enforcing the licensing regime.	
9.2 Joint authorization of licensing officers.	This part of the standards is a subject that will require joint consideration with other local authorities, involving both members and officer forums.
9.3 – 9.4 Setting expectations and monitoring.	The publicity in respect of complaint processes has been detailed earlier (paras. 4.29 – 4.33) and will be documented within the taxi/private hire policy. (ref 3.1)
9.5 – 9.10 Suspension and revocation of driver’s licences.	The information detailed in the standards replicates the considerations of the Council when considering suspensions and revocations. The legal requirements in respect of such provisions are longstanding and utilised appropriately, evidenced by the lack of decisions being overturned in appeals.