



NOTICE OF MEETING

LICENSING COMMITTEE

MONDAY, 25 JULY 2022 AT 3PM

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

Telephone enquiries to Democratic Services 023 9283 4060

Email: Democratic@portsmouthcc.gov.uk

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

Information with regard to public access due to Covid precautions

- Following the government announcement 'Living with COVID-19' made on 21 February and the end of universal free testing from 1st April, attendees are no longer required to undertake an asymptomatic/ lateral flow test within 48 hours of the meeting however we still encourage attendees to follow the PH precautions we have followed over the last two years to protect themselves and others including vaccination and taking a lateral flow test should they wish.
- We strongly recommend that attendees should be double vaccinated and have received a booster.
- If symptomatic we encourage you not to attend the meeting but to stay at home. Updated government guidance from 1 April advises people with a respiratory infection, a high temperature and who feel unwell, to stay at home and avoid contact with other people, until they feel well enough to resume normal activities and they no longer have a high temperature. From 1 April, anyone with a positive COVID-19 test result is being advised to follow this guidance for five days, which is the period when you are most infectious.
- We encourage all attendees to wear a face covering while moving around crowded areas of the Guildhall.
- Although not a legal requirement, attendees are strongly encouraged to keep a social distance and take opportunities to prevent the spread of infection by following the 'hands, face, space' and 'catch it, kill it, bin it' advice that also protects us from other winter viruses.
- Hand sanitiser is provided at the entrance and throughout the Guildhall. All attendees are encouraged to make use of hand sanitiser on entry to the Guildhall.
- Those not participating in the meeting and wish to view proceedings are encouraged to do so remotely via the livestream link.

Licensing Committee Members:

Councillors Scott Payter-Harris (Chair), George Madgwick (Vice-Chair), Yinka Adeniran, Dave Ashmore, Kimberly Barrett, Stuart Brown, Tom Coles, Jason Fazackarley, Lewis Gosling, Ian Holder, Leo Madden, Asghar Shah, Linda Symes, Benedict Swann and Daniel Wemyss

Standing Deputies

Councillors Matthew Atkins, Lee Hunt, Abdul Kadir, Gemma New, Steve Pitt, John Smith, George Fielding and Charlotte Gerada

(NB This agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the relevant officer by 12 noon of the working day before the meeting, and must include the purpose of the deputation (eg. for or against the recommendations). Email requests are accepted. Contact: the Democratic Services Officer as listed above.

AGENDA

- 1 Apologies for Absence**
- 2 Declarations of Members' Interests**
- 3 Minutes of the Previous Meeting (Pages 7 - 12)**
RECOMMENDED that the minutes of the Licensing Policy meeting held on 16 December 2021 be approved as a correct record.
- 4 Town Police Clauses Act 1847 and Part II, Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Matters - Amendments to Adopted Statement of Licensing Policy (Pages 13 - 136)**

Purpose.

To consider proposed amendments to the adopted statement of licensing policy for the control and supervision of the hackney carriage and private hire trades within Portsmouth (the PCC policy).

To note and implement, where necessary, changes to the PCC policy having regard to the statutory Taxi and Private Hire Vehicle Standards guidance issued by the Secretary of State for Transport in July 2020.

To submit the proposed policy amendments for trade and public consultation between the period 01 August and 30 September 2022.

To reconvene at a future date to consider all responses received.

RECOMMENDED that the Licensing Committee:

Notes and approves the contents of the report and appendices and delegates authority to the Head of Service to arrange for the formal distribution and consultation on any agreed proposed amendment to the PCC policy and for responses to be received between 01 August and 30 September 2022.

Agree to meet on a future date after 30 September 2022 to consider any policy amendments (in light of and having regard to any representations received) and with a view to agree an implementation date for the policy and any approved changes.

Note/ approve the use of the existing penalty points system and other delegated powers to enforce the requirement that PCC prescribed livery must be displayed on licensed vehicles as set out in paragraph 3.4 of the report.

5 Trial to allow PCC Licensed Private Hire Vehicles in Bus Lanes in Portsmouth (Pages 137 - 144)

Purpose.

The purpose of this report is to provide an update on the recently approved changes to the Private Hire Vehicles in bus lanes trial following the decisions taken by the Traffic & Transportation Committee on the 5 July 2022. The report details these changes and the justifications for these amendments.

The following recommendations were adopted in the Traffic & Transportation committee on the 5th July 2022:

- A trial was approved to allow access for Portsmouth City Council Licensed Private Hire Vehicles to use a limited number of five bus lanes in Portsmouth for a minimum of 3 months including:
 - Cavell Drive,
 - Marketway,
 - Mile End Road,
 - Bishop Crispian Way,
 - and Queen Street.
- Delegated authority to immediately cease any or all of the five trial locations if safety issues become apparent.
- Delegated authority to the Director of Regeneration in consultation with the Cabinet Member for Traffic and Transportation and the Section 151 Officer to release funding to

undertake the monitoring and evaluation of this trial as the details are developed, this will be funded from the Parking Reserve.

- Noted that consultation will continue with the working group and licensing committee will continue as the project develops.
- Noted that a report will be brought back to Traffic & Transportation within 6 months of the trial launch to provide an update on the trial progression and next steps.

RECOMMENDED that the report be noted.

Members of the public are permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting nor records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

Whilst every effort will be made to webcast this meeting, should technical or other difficulties occur, the meeting will continue without being webcast via the Council's website.

This meeting is webcast (videoed), viewable via the Council's livestream account at <https://livestream.com/accounts/14063785>

Coronavirus Risk Assessment for the Council Chamber, Guildhall

Date: 1 April 2022 (based on Living safely with respiratory infections, including COVID-19, 1 April 2022)

Review date: Ongoing

Author: Lynda Martin, Corporate Health and Safety Manager, Portsmouth City Council

Coronavirus Risk Assessment for the Council Chamber, Guildhall

Manager's Name and Job Title completing Risk Assessment:	Lynda Martin Corporate Health and Safety Manager	Risk Assessment Dept:	Corporate Services	Date:	1 April 2022	Signature:	
		Location:	Council Chamber, Guildhall				

Hazard	Who could be harmed and how	All controls required	How controls will be checked	Confirmed all in place or further action required
Risk of exposure to Covid-19 virus - Ventilation	Staff, contractors and attendees	<ul style="list-style-type: none"> There are no longer capacity limits for the Guildhall Chamber. We encourage all attendees to wear a face covering when moving around crowded areas of the Guildhall and the council chamber. The mechanical ventilation system works efficiently and the South Special Rooms Supply and Extract fans are fully operational during times when the Council Chamber is in use. Pedestal fans - positioned in each of the wing areas and along the back wall behind the pillars, maximum speed and modulation setting. 	Staff will ensure ventilation system and fans are operational.	In place
Risk of transmission of virus - Risk mitigation	Staff, contractors and attendees	<p>The Guildhall has the following measures in place:</p> <ul style="list-style-type: none"> Face Coverings – as per government guidance, we encourage you to continue to wear a face covering whilst in the venue & crowded places especially when walking around the building. Enhanced Sanitisation & Cleaning – we will carry out enhanced cleaning procedures between meetings and we encourage you to sanitise your hands on entry and regularly throughout your visit at the sanitisation points provided. 	The Guildhall Trust and PCC Facilities Team to implement and monitor.	In place
Risk of transmission of virus - Hygiene and Prevention		<ul style="list-style-type: none"> Updated government guidance from 1 April advises people with a respiratory infection, a high temperature and who feel unwell, to stay at home and avoid contact with other people, until they feel well enough to resume normal activities and they no longer have a high temperature. From 1 April, anyone with a positive COVID-19 test result is being advised to follow this guidance for five days, which is the period when you are most infectious. Although not a legal requirement attendees are strongly encouraged to keep a social distance and take opportunities to prevent the spread of infection by following the 'hands, face, space' and 'catch it, kill it, bin it' advice that also protects us from other winter viruses. Wash hands for 20 seconds using soap and water or hand sanitiser. Maintain good hygiene particularly when entering or leaving. Hand sanitiser and wipes will be located in the meeting room. No refreshments will be provided. Attendees should bring their own water bottles/drinks. All attendees should bring and use their own pens/stationery. Attendees are no longer required to undertake an asymptomatic/ lateral flow test within 48 hours of the meeting however we still encourage attendees to follow the Public Health precautions we have followed over the last two years to protect themselves and others including vaccination and taking a lateral flow test should they wish. It is strongly recommended that attendees should be double vaccinated and have received a booster. 	The Guildhall Trust and PCC Facilities Team to implement and monitor.	In place
Financial Risk	Staff, contractors and attendees	<ul style="list-style-type: none"> The council meeting may need to be cancelled at short notice if the Covid-19 situation changes due to local outbreaks, local sustained community transmission, or a serious and imminent threat to public health. Technology in place to move to virtual council meeting if required and permitted by legislation. 	Financial commitments minimised wherever possible.	In place

Agenda Item 3

MINUTES OF A MEETING of the Licensing Committee held on Thursday 16 December 2021 at 4 pm in the Guildhall.

Present

Councillors Claire Udy (Chair)
Scott Payter-Harris (Vice-Chair)
Dave Ashmore
Kimberly Barrett
Stuart Brown
Tom Coles
Charlotte Gerada
Hannah Hockaday
Ian Holder
George Madgwick
Lee Mason
Robert New
Daniel Wemyss

5. Apologies for Absence (AI 1)

Apologies for absence were received from Councillors Jason Fazackarley and Benedict Swann.

6. Declarations of Members' Interests (AI 2)

There were no declarations of interest.

7. Minutes of the Previous Meeting (AI 3)

RESOLVED that the minutes of the previous meeting held on 15 October 2021 be approved.

8. London Road taxi rank update (AI 4)

Hayley Chivers, Strategic Transport Lead, introduced the report

Members agreed that North End needs a taxi rank. Although they acknowledged the considerable work officers had done on where best to place the rank they requested that officers engage further with the taxi trade to find a solution which they prefer. Officers explained locating the rank further north along London Road closer to the junction with Laburnum Grove was deemed unsuitable because of the bus lane. However, they could carry out a formal road safety audit and obtain an independent opinion. Members requested further consultation with the bus companies and that an independent opinion be brought back to the Cabinet Member for Traffic & Transportation.

The Licensing Committee noted the report.

9. Trial to allow Portsmouth City Council licensed Private Hire Vehicles in bus lanes in Portsmouth (AI 5)

Felicity Tidbury, Transport Planning Manager, introduced the report.

Peter Sutherland made a deputation in favour of the report. Deputations are not minuted but can be viewed on the council's website at

[Agenda for Licensing Committee on Thursday, 16th December, 2021, 4.00 pm Portsmouth City Council](#)

In response to questions from members, officers explained the trial is for a minimum of three months but can be extended in case further evidence is needed. There have been no previous trials in Portsmouth but officers are looking at other areas, for example, Southampton, who have a permanent scheme. A trial will show if there is any impact on bus journey times.

The working group will be established in the New Year and will invite representatives from the taxi trade and all other current Portsmouth bus lane users, including cyclists and bus operators. Officers will work closely with the working group to monitor the trial and assess the impact on existing bus lane users. The trial is due to start in March 2022. It has a dedicated project manager who is formulating the working group's terms of reference.

Members thought extending the trial was important as normal travel habits have been severely impacted due to Covid. They looked forward to the trial and noted that taxis and PHVs are a form of public transport.

The Licensing Committee noted the report.

10. Town Police Clauses Act 1847 and Part II, Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Matters - Amendments to Adopted Statement of Licensing Policy (AI 6)

Bruce Hall of Aqua Cars made a deputation in favour of the report.

Peter Sutherland, Mahala Dyer, Tamas Bodolai, Mugurel Alin Coltea and Bogdan Alexandru Ungureanu made deputations against the report.

Written deputations from Tofayel Ahmed and Andrew Brown against the report were read out by the Chair.

Nickii Humphreys, Licensing Manager, introduced the report, noting that airport and executive services are exempt from the requirements for livery as recommended in the report. With regard to the summary of non-compliance with livery, she explained that Licensing Enforcement Officers have had to spend time dealing with drivers who are not using it correctly. In view of the severe impact of Covid on the taxi trade and the council's resources, enforcement officers have spent time in the last year where the demand is most required rather than driving around looking for non-compliant vehicles. The summary is based on verified data. If there were a similar number of compliance failures with alcohol and entertainment licence conditions it would be a concern for public safety. Correct use of livery is a mandatory condition applied to licences and it is not being used in accordance with members' instructions.

The Licensing Manager summarised the four tests the licensing authority must apply with regard to competition: will the proposed measures affect directly or indirectly the number of suppliers; will they affect the ability of suppliers to compete; will they limit suppliers' incentives to compete; will they limit choice and information for consumers?

Some local authorities (usually larger ones like Southampton, Eastleigh, Wolverhampton, Leeds, possibly Manchester) have recently implemented policies requiring vehicles to show the livery of the operator they work for. These developments reflect the changes nationally in the taxi trade and safety standards. Vehicles can come from other areas to Portsmouth but this allows for different standards, for example, some local authorities may have different standards for CCTV. No identification on vehicles can impinge on the public's safety and vulnerability, especially at night.

Members' Questions

In response to questions officers clarified the following points:

Section 3.4; recommendation 6 - Officers agreed the wording could be made clearer to show that a grace period is permissible in line with the DfT's Statutory Guidance if a policy review results in a review of existing licences. It is reasonable to review a licence at the latest on its renewal. A private hire vehicle (PHV) or Hackney carriage driver licence can be issued for between 12 months and three years. A PHV operator's licence can be for 12 months or five years. PHV and Hackney carriage vehicle licences all have a maximum of 12 months. Five years could be too long to review existing licence holders but under 12 months could be too short.

The Legal Advisor advised that the report is a consultation document and that no decision is being taken today. He recommended the Committee notes the issues raised and that they be addressed in the Licensing Officer's report together with other responses from the consultation.

Section 4.6; recommendation 7 - Using the Disclosure and Barring Service (DBS) Update Service will reduce the cost for drivers from about £35 every six months to £13 pa for a registration fee. The Update Service means the local authority can check automatically and drivers do not need to come into the office.

Section 4.8; recommendation 16 - With regard to certificates of conduct to cover residence overseas, members noted that even if someone was abroad for one day they could still have committed a crime and so criminal record information should be required. Officers said members were ahead of their time in asking for certificates of good conduct. It is proposed to increase the age for which a certificate is required from ten to 18 in line with the DfT's Statutory Guidance. Whether information on criminal records as well as good conduct can be obtained depends very much on the country where someone lived. The Home Office provides useful information for local authorities and applicants about the information embassies can provide on criminal records and will be incorporated into the report.

Section 5.4; recommendation 21 - In response to comments that some convictions listed in the DfT Statutory Guidance are not in PCC's proposed policy, officers

explained the guidance has a broad remit and there are many considerations members will want to take into account. There are local policies, the DfT Statutory Guidance, and guidance from the Institute of Licensing, who work with the DfT and the Local Government Association, so there may be a combination of different policies. Members can make additions during the consultation. Other agencies such as the police and safeguarding will be consulted.

Section 6.0; recommendation 23 - Officers confirmed that an enhanced DBS check is mandatory every six months and the recommendation concerns the type of information sought, for example, vetting and barring. The DBS Update Service is about a more efficient way of checking rather than the content of the check.

Section 8.1; recommendation 31 - Officers acknowledged it was a very valid question about who exactly an operator is for organisations like Uber as it could be the app or the driver. They have considered this question and will seek further advice from the DfT and other local authorities. All licensing authorities have to give feedback on the DfT Statutory Guidance.

Section 10.0 - Members noted that the policy on age limits for wheelchair accessible vehicles had changed a year ago and was now changing again which could be annoying and unfair for the trade.

Section 11.1 - Officers said the summary of non-compliance with livery requirements was compiled purely from data supplied by licensing enforcement officers on patrol. The PHV trade used to be very localised with not many vehicles coming from outside the area but this has changed since de-regulation as bookings can be subcontracted. A customer in Portsmouth can request a PHV on an app but there is no guarantee it will be licensed with Portsmouth. If a vehicle is involved in an accident and has no livery to distinguish it then officers have to establish where it is licensed. Livery could state a car is an Uber vehicle but a Portsmouth Uber.

Covid has had a significant impact on the trade both locally and nationally and there is a shortage of drivers. As drivers can use multiple apps to find work they can "cherry pick" jobs so could cancel a less profitable job meaning vulnerable people could be left waiting late at night for drivers who do not appear. Public safety and customer satisfaction are relevant considerations for members.

Members thought that as the trade was facing difficult times "cherry picking" jobs was understandable though they noted safety concerns. Mr Sutherland said that as self-employed workers drivers can choose where they place their labour inconvenient though it might be. Fixed operator livery would restrict drivers' ability to take jobs. Sometimes drivers have to change a booking on an app which then automatically searches for another driver; this appears as a cancellation to the customer. Uber drivers are not required to show any operator livery. One of the deputies said people can raise a complaint with the council if they feel they have been left vulnerable because of a cancelled booking. Mr Hall said that regardless of who drivers work for, customers must know whose car they are getting into and where it is licensed. Magnetic or adhesive livery can be used but it must be visible.

Members' Comments

Members asked if there were complaints from the public and reported issues as a result of livery not being displayed correctly. It is unfair to penalise all self-employed drivers who may then choose to work in other areas and exacerbate the shortage of drivers. Those who break the rules will just work somewhere else and still break the rules. If drivers work for one company they become employees and will have employment rights. The council does not pay them an hourly wage so there is no need for them to conform with its regulations.

Officers explained that once a vehicle is a PHV or a taxi it is always one. The Licensing Act 1976 stipulates that if a vehicle is licensed then a plate has to be affixed to it; its status does not change whether it is used privately or professionally. Hackney carriages used to have their own taxation class and needed an MOT every 12 months as opposed to every three years. They cannot be one or the other; they are licensed vehicles until the licence is revoked or renewed. The Legal Advisor referred to the cases of *Benson v Boyce* for PHVs and *Edwards* for Hackney carriages which confirmed this principle.

Officers confirmed that the summary of non-compliance checks were separate incidents, not repeat offences, witnessed by impartial officers. Officers had seen at least three instances of magnetic signage in the wrong place on vehicles. Some signage does not adhere to aluminium so instead of using adhesive drivers put them on the wrong part of the vehicle. Officers had recently seen two instances of vehicles with no livery.

Members felt the lack of evidence was apparent and felt uncomfortable making a decision that would make life very difficult for the trade. They expected to see a breakdown with figures of compliance versus non-compliance. There was also some concern about the way the recommendations were written as they were not sufficiently neutral. A trial of more severe penalties for not displaying livery correctly might be more effective together with a more inclusive approach with local firms. They felt evidence of vulnerable passengers being left waiting was weak. If members considered more detailed accounts of incidents then the Committee may have to meet in closed session to protect people's identities. Officers advised they would need to consult the Chief Constable as to what information could be made available about offences.

The Chair said that although she was in favour of fixed livery at the back of vehicles and magnetic at the front she recognised other members' views, but the report is currently a consultation at this stage. She encouraged engagement with the consultation.

Officers explained that if members wished enforcement officers to focus on issues with livery, the Licensing Office could do this but will have to consider how it uses its resources and perhaps move focus away from other areas. Members suggested the Licensing Office should be adequately funded.

Officers apologised for the design of the magnetic livery, which some members felt was unattractive, but there are very few suppliers. However, it can be changed. Operator livery is a proposal for consultation but it is a pre-requisite for a vehicle to

have council livery. Depending on the result of the consultation, there could be separate reports on the DfT Statutory Guidance and the issue of livery as a whole.

The Legal Advisor reiterated that the report is a consultation document and that no decision is being taken today. The Committee's strong views that the recommendation for permanent livery is removed could be noted but the consultation should still proceed. If the recommendation is removed at this stage then it cannot be part of the consultation and would remove the opportunity for comment on it. Correspondence has already been sent to interested parties informing them they can make a representation when the consultation starts. Today's meeting is the start of the consultation and will not restrict or bind the Committee in any way.

Members felt that even though the report is a consultation document it cannot be used in its current form. They felt the evidence in Section 11 on non-compliance with livery was not strong enough to proceed to consultation. A revised document could include information on a stronger penalty system and options such as magnetic signage that could be placed on top of other signage. Members requested that a revised report be brought back to another meeting in March, which would allow time for extra evidence to be made available.

The Licensing Committee resolved to reject / defer the report in relation to item 6 on the agenda.

The meeting concluded at 6.20 pm.

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Signed by the Chair, Councillor Claire Udy

Agenda Item 4



Portsmouth
CITY COUNCIL

Title of meeting: LICENSING COMMITTEE - 25 JULY 2022

Subject: Town Police Clauses Act 1847 and Part II, Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Matters - Amendments to Adopted Statement of Licensing Policy

Report by: DIRECTOR OF CULTURE, LEISURE AND REGULATORY SERVICES

Wards affected: ALL

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 To consider proposed amendments to the adopted statement of licensing policy for the control and supervision of the hackney carriage and private hire trades within Portsmouth ("the PCC policy")
- 1.2 To note and implement, where necessary, changes to the PCC policy having regard to the statutory Taxi and Private Hire Vehicle Standards guidance issued by the Secretary of State for Transport in July 2020
- 1.3 To submit the proposed policy amendments for trade and public consultation between the period 01 August and 30 September 2022.
- 1.4 To reconvene at a future date to consider all responses received.

2. Recommendations

- 1) That the Licensing Committee notes and approves the contents of the report and appendices and delegates authority to the Head of Service to arrange for the formal distribution and consultation on any agreed proposed amendment to the PCC policy and for responses to be received between 01 August and 30 September 2022.
- 2) That the committee agree to meet on a future date after 30 September 2022 to consider any policy amendments (in light of and having regard to any representations received) and with a view to agree an implementation date for the policy and any approved changes.
- 3) That the committee note / approve the use of the existing penalty points system and other delegated powers to enforce the requirement that PCC prescribed livery must be displayed on licensed vehicles as set out in paragraph 3.4 of the report.

3. Background

- 3.1 On 24 February 2016, the Licensing Committee considered and approved its Statement of Licensing Policy (minute 09/2016 refers). This decision was subsequently approved by full Council on 22 March 2016 (minute 27/2016 refers).
- 3.2 Full Council delegated approval to the Licensing Committee to retain overall responsibility for the policy, to include any future amendments, variations, substitutions or deletions as may be required and after appropriate consultation.
- 3.3 Subsequent ad hoc changes/variations to the policy have been considered and approved by the committee on merit (and after trade consultation) between 2016 and 2020 in so far as this relates to:
- Licensed vehicle age limits
 - The use of magnetic livery on licensed vehicles
 - The use of operator signage
 - The Task & Finish Group report on taxi and private hire licensing and the subsequent government response
 - The draft DfT consultation on statutory taxi and private hire matters
 - The Equality Act 2010 relating to wheelchair accessible vehicles (WAV'S)
 - Proposals to support the Portsmouth Clean Air Zone (CAZ)
- 3.4 The Licensing Committee previously considered this report on [16 December 2021](#) but rejected the report and recommendations due to having concerns in relation to the proposal that magnetic PCC livery on licensed vehicles should be prohibited. This particular aspect of the consultation and the associated recommendation has, accordingly, now been removed from the report and consultation.

It is proposed that the Licensing Service will, instead, use the existing penalty points system and other delegated powers to enforce the requirement that PCC prescribed livery must be displayed on licensed vehicles in a stepped approach as follows:

- 1st breach of condition - 4 points awarded against the driver and proprietor (as per current policy requirements)
- 2nd breach of condition - 6 points awarded against the driver and proprietor
- 3rd breach of condition - Withdrawal of permission for magnetic livery and requirement that it be replaced with permanent adhesive livery
- Any further breaches will incur consideration of the suspension of driver licences and ultimately revocation of a driver's licence if non-compliance continues

It should also be noted that in those circumstances where the vehicle bodywork is of a type that prevents the magnetic signage being sufficiently effective or renders it non-adhesive, then only prescribed permanent adhesive livery will be issued / acceptable for the licensed vehicle.

- 3.5 The Secretary of State for Transport published statutory best practice guidance for taxi and private hire vehicle standards in July 2020. This is reproduced at **Appendix A** and puts, on a formal footing, the expected standards to both initially ensure and to consequently maintain public safety. The council, as the local licensing authority, has a legal duty pursuant to section 177 of the Police & Crime Act 2017 to "have regard" to the statutory standards. The guidance states that the expectation is that the recommendations are implemented "unless there is a compelling local reason not to" (see paragraph 1.3 of the guidance).

The Committee has previously been advised that the PCC policy is, in the main, compliant with the statutory standards now expected but there are some areas that require further consideration as shown in the recommended changes at **Appendix B**.

A copy of the Institute of Licensing (IOL) guidance on the suitability of applicants and licensees in the hackney and private hire trades is attached as **Appendix C**.

4. Reasons for recommendations

- 4.1 Statutory guidance makes it clear that taxis and private hire vehicles can be high risk environments and steps must be taken to secure the safety of children and vulnerable adults (as well as the wider public). Accordingly, it is necessary to consider and approve appropriate and proportionate changes to the current PCC policy having regard to:

- The Statutory Guidance now in force
- Representations from trade representatives, operators, vehicle proprietors and drivers together with any public or professional body responses
- Representations from those dealing with children or the vulnerable
- Representations from the general public
- Proposed amendments submitted by your reporting officer together with an emphasis on "streamlining" work processes where applicable - for example recommending the use of "on line" DBS checks

5. Equality impact assessment

An Integrated Impact Assessment has been prepared and is attached as **Appendix D**.

6. Legal implications

The legal implications are embodied within the review document at **Appendix B**.

7. Finance comments

None applicable directly to this report and proposed recommendations but guiding principles for "Fees and Charges" are contained within chapter 16 of the adopted PCC policy document.



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Signed by:

Appendices:

- A) DfT Statutory Taxi & Private Hire Vehicle Standards - July 2020
- B) Proposed recommended changes/additions/substitutions to the policy for public and trade consultation as recommended by your reporting officer
- C) Institute of Licensing (IOL) guidance on the suitability of applicants and licensees in the hackney and private hire trades
- D) Integrated Impact Assessment

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Adopted Statement of Licensing Policy effective April 2016 as amended	PCC Website at: https://www.portsmouth.gov.uk/wp-content/uploads/2020/05/hackney-carriage-private-hire-licensing-policy-final-v3.pdf
Statutory Taxi & Private Hire Vehicle Standards - July 2020	https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards
LGA Taxi & Private Hire Licensing - Councillor Handbook - July 2021	https://www.local.gov.uk/publications/councillor-handbook-taxi-and-phv-licensing-2021
Institute of Licensing (IOL) guidance on the suitability of applicants and licensees in the hackney and private hire trades	Guidance on Suitability Web Version (16 May 2018).pdf (instituteoflicensing.org)
Town Police Clauses Act 1847	Published Statute
Part II, Local Government (Miscellaneous Provisions) Act 1976	Published Statute
Equality Act 2010	Published Statute

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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 Signed by:

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Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

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

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

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

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

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

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

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

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

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

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

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

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

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

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

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

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

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

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

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

Licensee self-reporting

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

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

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

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

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

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

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

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

Working with the Police

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

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

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

Multi-agency Safeguarding Hub (MASH)

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

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

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

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

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

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

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

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

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

Training decision makers

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

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

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

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

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

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

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

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

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

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

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

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

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

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

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

6. Driver Licensing

Criminality checks for drivers

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

Safeguarding awareness

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

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

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

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

‘County lines’ exploitation

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

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

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

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

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

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

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

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

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

Language proficiency

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

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

7. Vehicle Licensing

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

Criminality checks for vehicle proprietors

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

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

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

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

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

In-vehicle visual and audio recording – CCTV

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

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

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

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

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

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

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

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

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

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

8. Private Hire Vehicle Operator Licensing

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

Criminality checks for private hire vehicle operators

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

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

8.4 Refusal to license 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.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

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

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

Booking and dispatch staff

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

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

Record keeping

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

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

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

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

Use of passenger carrying vehicles (PCV) licensed drivers

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

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

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

9. Enforcing the Licensing Regime

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

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

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

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

Suspension and revocation of driver licences

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

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

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

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

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

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

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

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

Annex – Assessment of Previous Convictions

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

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

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

Exploitation

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

Offences involving violence against the person

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

Possession of a weapon

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

Sexual offences

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

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

Dishonesty

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

Drugs

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

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

Discrimination

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

Motoring convictions

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

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

Drink driving/driving under the influence of drugs

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

Using a hand-held device whilst driving

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

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

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

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

Annex – CCTV Guidance

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

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

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

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

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

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

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

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

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

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

Annex - Staying Safe: Guidance for Passengers

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

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

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

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

When using a private hire vehicle, passengers should always:

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

When using a taxi, passengers should where possible:

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

Review of Hackney Carriage and Private Hire Statement of Licensing Policy - July 2022

Proposals and Consultation Document

www.portsmouth.gov.uk



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Section 1: Introduction to the Proposals/Consultation

- 1.0 This document sets out a number of proposals for consideration by the Licensing Committee in relation to its Statement of Licensing Policy for the hackney carriage and private hire trade.
- 1.1 The proposed amendments to the current statement of licensing policy are intended to reflect:
- Statutory Guidance issued by the DfT;
 - Views previously expressed by the taxi/private hire trade; and
 - Amendments proposed by the Licensing Service following review of the existing policy arrangements.
- 1.2 **It is important to note that any decisions made by the Licensing Committee in respect of these draft proposals will be subject to formal consultation with the trade, members of the public and relevant authorities prior to final determination at a subsequent meeting. This is to ensure that all responses are fully considered by the Licensing Committee when determining its policy. The consultation will commence on 01 August 2022 and run until 30 September 2022.**
- 1.3 Responses to the consultation shall be in writing and can be submitted by email at: licensing@portsmouthcc.gov.uk or by post to: The Licensing Manager, Portsmouth City Council, Licensing Service, Civic Offices, Guildhall Square, Portsmouth, Hants, PO1 2AL.
- 1.4 The purpose of policy is to "set the standards" and to offer informed advice and expectations to applicants, licence holders and their appointed representatives alike. Policy should be made (and based) on evidence in order to formulate any local requirements and should not be introduced without prior consultation or on a whim.
- 1.5 Policy directives assist both members and officers in dealing with licensing matters in a uniform and consistent way and ultimately gives guidance to those in subsequent appeal situations as the underlying rationale behind any individual decision-making process.
- 1.6 Whilst no policy, in general, can be considered an absolute requirement, the Licensing Committee will look to persons to explain, in plain and clear terms, why a particular aspect of policy or a directive should not apply to them. Applicants and licence holders are advised that each case will be heard and determined on its merits with the policy used to "guide but not to bind" the decision maker - whether this is the Licensing Committee/Sub-Committee or officers acting under delegated authority and on behalf of the Directorate Head.
- 1.7 The last major policy review of the respective hackney carriage and private hire trades was undertaken in 2016 and was approved by [Full Council on 22 March 2016](#). The 2016 review formed the foundation and basis of future policy in respect of the hackney carriage and private hire trade in Portsmouth. Since then the [policy](#) has been subsequently amended to reflect changes in legislation, Government guidance and consultation with the taxi and private trade and other relevant bodies and organisations.
- 1.8 The Council recognises that all persons, including those involved in the provision of local transport, should work together to help shape the great waterfront city. The Council aspires to provide safe communities and accordingly recognises that the taxi and private hire industry have an important role to play.

The determination of policy and associated guidelines can be shaped by many elements but an overriding emphasis of promoting a **local policy** based on **local needs** and having due regard to **local knowledge and evidence** for and from **local people** is of paramount importance.

Section 2: DfT Statutory Taxi and Private Hire Vehicle Standards

- 2.0 The Department for Transport ("DfT") issued new [Statutory Taxi and Private Hire Vehicle Standards](#) to licensing authorities on 21 July 2020. The Statutory Standards set out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable. The guidance places great importance on the Government and licensing authorities working together to ensure that, **above all else**, the taxi and private hire vehicle services are safe for children and vulnerable adults as well as the wider public. A copy of the Statutory Taxi and Private Hire Vehicle Standards is attached as **Appendix A** to the report.
- 2.1 Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards. In the interests of transparency, the Government expects all licensing authorities to publish their consideration of the measures contained in the Standards and the policies and delivery plans that stem from these. **The Department for Transport have emphasised that it expects its recommendations to be implemented unless there is a compelling local reason not to.** Whilst PCC already have policies in place that meet a number of these statutory standards, there is still more work to be done to ensure full compliance with the guidance.
- 2.2 The DfT has stated that 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 (see paragraph 1.1 of the DfT statutory standards).
- 2.3 Whilst the focus of the DfT standards is on protecting children and vulnerable adults, it states that all passengers will benefit from the recommendations made within its guidance. The guidance states that there is consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector and its recommendations are the result of detailed discussion with the trade, regulators and safety campaign groups. It must not be forgotten however, that licensed drivers, proprietors and operators play a vital role in providing a safe and reliable local transport service to the people of Portsmouth and visitors alike.
- 2.4 **It is important to note that the DfT therefore expects its recommendations to be implemented unless there is a compelling local reason not to.**
- 2.5 The Statutory Guidance sets out a statutory framework that licensing authorities **"must have regard"** to when exercising their functions which include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. "Having regard" is more than having cursory glance at a document before arriving at a preconceived conclusion.
- 2.6 However, the DfT acknowledges that 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.

Section 3: Administering the Licensing Regime

3.0 Licensing Policies

DfT Guidance:

Licensing Authorities should review their licensing policies every 5 years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.

PCC Policy:

The licensing policy for the hackney carriage and private hire trade will be reviewed, if required, by the Licensing Committee every 3 years. PCC instigate interim reviews of aspects of the policy when there is a recognised need to do so. The Licensing Service provide Key Performance Indicators ("KPIs") to the Council every year and monitor every quarter on its performance.

Recommendations:

- 1) That the Licensing Committee amend its current policy review period from 3 years to 5 years to reflect the best practice guidance;**
- 2) That the Licensing Committee notes the guidance in relation to interim reviews and monitoring of performance.**

3.1 Duration of licences

DfT Guidance: *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.*

PCC Policy:

The Deregulation Act 2015, which came into force on 1 October 2015, provides that a driver's licence shall be issued for a period of 3 years and a private hire operator's licence shall be issued for a period of 5 years on a "rolling" schedule.

The default position is for the grant or renewal of 3 yearly driver licences and 5 yearly private hire operator's licence.

The Head of Service has delegated authority to grant and renew driver licences and private hire operator's licences for a lesser period where there are justifiable reasons to grant (or renew) licences for shorter periods having regard to the circumstances of any one individual case.

Recommendations:

- 3) That the Licensing Committee notes that the current PCC policy accords with the DfT Statutory Guidance.**

3.2 Whistleblowing

DfT Guidance: *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. Local authorities should ensure they have an effective "whistleblowing" policy and that all staff are aware of it.*

PCC Policy:

PCC has developed and adopted an internal "whistleblowing" policy and is available for staff to access at any time.

Recommendations:

(4) That the Licensing Committee notes that the current PCC policy accords with the DfT Statutory Guidance.

3.3 Consultation at the local level

DfT Guidance: *Licensing authorities should engage with neighbouring LA areas to identify any concerns and issues that might arise from a proposed change.*

PCC Policy:

When consulting on any proposed amendments to the statement of licensing policy for the hackney carriage and private hire trade, PCC will extend the consultation to a broad audience including the taxi/private hire trade itself, any persons, organisations and neighbouring local authorities likely to be affected by the proposals. The views of all these persons or bodies will be given appropriate weight by the Licensing Committee when the policy is determined.

Recommendations:

(5) That the Licensing Committee notes that the current PCC policy accords with the DfT Statutory Guidance.

3.4 Changing licensing policy and requirements

DfT Guidance: *Any changes in licensing requirements should be followed by a review of the licences already issued.*

PCC Policy:

Previous policy changes resulting in a change of licensing requirements have not ordinarily led to a review of the licences already issued in accordance with previous policy requirements in place at the time the licence was granted. Having regard to the current DfT guidance, it will now be necessary to apply any new policies "retrospectively".

Recommendations:

(6) That the Licensing Committee amends its current statement of licensing policy to include a statement that any changes in licensing requirements shall be followed by a review of the licences already issued and that such a review may lead to a suspension, revocation or a refusal to renew a respective driver, vehicle or operator licence if a licence holder does not meet the amended required standard.

Section 4: Gathering and Sharing Information

4.0 The Disclosure and Barring Service

DfT Guidance: *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.*

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.

PCC Policy:

All driver DBS checks are to an enhanced level and private hire operators to a basic standard. These checks are undertaken on an initial application and 3 yearly after. Currently, drivers and operators have discretion to sign up to the DBS Update Service or use the postal system to receive DBS Certificates.

Further information regarding the DBS Update Service is available [here](#).

Recommendations:

- (7) That, in the interests of efficiency and mitigation of potential delays in granting/renewing licences, all applicants/existing drivers and private hire operators will be required to subscribe to the DBS Update Service when their next DBS check is required to be undertaken; and**
- (8) That the Head of Service be granted delegated authority by the Licensing Committee to amend/introduce or update such processes as necessary in line with recommendation (7) above.**

4.1 Common Law Police Disclosure

DfT Guidance: *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.*

PCC Policy:

The current statement of licensing policy recognises that the Council and Licensing Committee must exercise any function with a view to preventing crime and disorder in accordance with section 17 of the Crime and Disorder Act.

The policy also recognises the importance of partnership working with other agencies including the Police, Immigration Enforcement and DVSA.

PCC has established good working relationships with the Police to promote the safety of both the public and the trade itself and will continue to ensure that it maintains an effective working relationship as regards information sharing.

Members will be aware that the Licensing Service is "co-joined" with the Portsmouth Police Licensing Unit. This has enabled joint working, immediate intelligence sharing and the ability to deal quickly with driver matters under consideration.

Recommendations:

(9) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

4.2 Licensee self-reporting

DfT Guidance: *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.*

PCC Policy:

Licence holders are required by way of condition and policy to notify the Council within 24 hours of any arrest, detention or charges against them.

Recommendations:

(10) That the Licensing Committee amend the current policy to require notification to be given within 48 hours instead of 24 hours as recommended in the DfT Statutory Guidance.

4.3 Referrals to the Disclosure and Barring Service and the Police

DfT Guidance: *licensing authorities should make a referral to the DBS when it is thought that:*

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

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

Harm Test - a person satisfies the harm test if they may harm a child or vulnerable adult or put them at risk of harm.

PCC Policy:

Whilst there is an awareness by the licensing authority that referrals can be made to the DBS under the criteria referred to in the DfT Guidance, there is no specific reference to this within the current policy.

Recommendations:

(11) That the Licensing Committee amends its current statement of licensing policy to include the following statement:

The Licensing Authority will make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the "harm test"; or
- received a caution or conviction for a relevant offence and;
- The person they are referring is, has or might in future be working in regulated activity.
- If the above conditions are satisfied, the DBS may consider it appropriate for the person to added to a barred list.

4.4 Working with the Police

DfT Guidance: *As part of building an effective working relationship between the licensing authority and the police, action taken by the licensing authority as a result of information received should be fed-back to the police.*

PCC Policy:

See comments in paragraph 4.1 above in relation to Common Law Police Disclosure.

Recommendations:

(12) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

4.5 Sharing licensing information with other licensing authorities

DfT Guidance: *Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.*

DfT Guidance: *The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of nondisclosure of relevant information by applicants.*

PCC Policy:

All driver and private hire operator applicants are required to provide details of any previous licensing history on initial application and subsequent renewals. This includes details of the relevant local authority, the decision and if this was to refuse or revoke a licence, a summary of the reasons.

Whilst PCC is registered with the National Anti-Fraud Network and aware of the national register of taxi and private hire vehicle driver licence refusals and revocations ("NR3"), this has not widely been used as a checking mechanism in addition to the self-declaration made by applicants.

Locally however, Portsmouth is a member of the Hampshire & IOW Licensing Officer Group and there is an established constitutional concordat to "share" details of licence holders whose licences have been suspended, revoked or not renewed by respective member authorities - particularly where public safety is a paramount concern.

Recommendations:

(13) That the Committee recognises the value of a national register of taxi and private hire vehicle driver licence refusals and revocations ("NR3") as a checking mechanism and delegate authority to the Head of Service to put such processes in place to contribute and monitor the NR3 register when dealing with applications for private hire and taxi licences.

4.6 Multi-agency Safeguarding Hub (MASH)

DfT Guidance: *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).*

PCC Policy:

As stated in the current PCC policy, the Licensing Service are members of the existing Multi-agency Safeguarding Hub and attend such meetings where necessary.

Recommendations:

(14) That the Committee notes the involvement of the Licensing Service in the existing Multi-agency Safeguarding Hub (MASH) for the purposes of sharing necessary and relevant information between stakeholders.

4.7 Complaints against licensees

DfT Guidance: *All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.*

PCC Policy:

The Council, as the local licensing authority, is responsible for the statutory control and supervision of both the hackney carriage and private hire trades. The current policy provides the following objectives:

1. To ensure that the policies, conditions, byelaws and all other requirements relating to the hackney carriage and private hire undertaking are enforced in a firm, fair, transparent and proportionate way;
 - (a) To target operators, vehicle proprietors and drivers (to include those vehicles and drivers licensed elsewhere and coming into the city) based on the principle of "risk assessment" and with the use of intelligence data recording;

(b) To take strong enforcement action and consider the use of both criminal proceedings AND to seek the suspension or revocation of licences where evidence that the public safety and welfare is/has been put at risk;

2. To work in partnership with other agencies including the Police, Immigration Enforcement Service and DVSA;

To offer ongoing guidance and support to licence holders.

The Licensing Service utilises software to record, manage and report on complaints against licence holders.

The use of a "Points" system (first introduced in 1994) is used as a "fast track" disciplinary measure to deal with:

- Licence holders breaching conditions
- Non-compliance with the provisions of the 1847 and 1976 Act
- General unsatisfactory conduct
- Sanctions following receipt of complaints from the public, other road users and the trade about the conduct of licence holders.

All licensed vehicles are required to display notices within the vehicle giving details of how complaints can be made to the Licensing Authority.

Recommendations:

- (15) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.**

4.8 Overseas convictions

DfT Guidance: *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.*

PCC Policy:

Any person who has lived overseas for any period of time since the age of 10 will be required to provide proof of fitness by way of a "certificate of good conduct" obtained via an embassy or other recognised government agency and to be authorised by an accredited notary. The certificate must be provided for both criminal and motoring matters and be translated into English. Only original documents will be accepted.

Recommendations:

- (16) That the Committee amend its current policy requirements to require a certificate of good conduct for any person who has lived overseas for any period of time since the age of 18 in accordance with the DfT guidance.**

Section 5: Decision Making

5.0 Administration of the licensing framework

DfT Guidance: *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.*

DfT Guidance: *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.*

PCC Policy:

The current policy document provides a clear scheme of delegation to the licensing committee, sub-committee or an officer. A copy of the current scheme is attached as **Appendix A** to this document.

In respect of resourcing the licensing service to allow the licensing authority to discharge the function effectively and correctly, the Licensing Committee undertake an annual fee review to ensure that the service is adequately resourced to meet with the demands of the licensing function.

Recommendations:

(17) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

5.1 Training decision makers

DfT Guidance: *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.*

PCC Policy:

The current policy is for all licensing committee members to be invited to attend licensing training on an annual basis.

Recommendations:

(18) That the Licensing Committee notes that current practices and procedures implemented by PCC to arrange training annually for councillors sitting on the Licensing Committee generally accord with the DfT Statutory Guidance but may wish to consider mandating that all councillors wishing to sit on the Licensing Committee must attend annual training provided by the council in order to determine applications or policy matters.

5.2 The regulatory structure

DfT Guidance: *It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.*

DfT Guidance: *All licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence. It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.*

PCC Policy:

The above guidance is already incorporated within the existing scheme of delegation referred to in 5.0 above.

Recommendations:

(19) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

5.3 Fit and proper test

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

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

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

DfT Guidance: *All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence.*

PCC Policy:

The current policy makes specific reference to the "fit and proper test" and incorporates the following adopted criteria:

- a) The policy statement and guidelines on the relevance of convictions
- b) The requirement for applicants for both hackney carriage and private hire drivers to have held a full driving licence for 2 years
- c) Drug testing requirements
- d) The requirement to adopt a minimum entry age limit to the trade of 21

- e) Mandatory NEW driver training (for both hackney carriage and private hire drivers)
- f) English language competency and proficiency testing
- g) Driving assessment training.

Recommendations:

(20) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance. Members may wish to include further guidance to applicants incorporating the following paragraph:

When considering an application for a driver's licence, the licensing authority will consider, without any prejudice, and based on the information before them, if it would allow a person for whom they care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the licensing authority will likely consider that the individual should not hold a licence.

5.4 Criminal convictions and rehabilitation

DfT Guidance: *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 licensed 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.*

DfT Guidance - 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 handheld 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.

PCC Policy:

The current policy document provides guidelines on the relevance of convictions and behaviour. A copy of the current guidelines is attached as **Appendix B** to this document.

Recommendations:

(21) That the Licensing Committee reviews its current guidelines on the relevance of convictions and considers what changes, if any, it considers necessary to accord with the DfT Statutory Taxi and Private Hire Vehicle Standards. When undertaking this task, members may also wish to consider the Institute of Licensing (IOL) guidelines on the relevance of convictions. This guidance is attached as Appendix C to the report and in addition, a comparison table is attached as part of Appendix B to this document.

Section 6: Driver Licensing

6.0 Criminality checks for drivers

DfT Guidance: *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. 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.*

DfT Guidance: *In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list. Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.*

PCC Policy:

As part of the application process for all drivers, the licensing authority also carries out a check of the children and adult Barred Lists in addition to an enhanced DBS check.

See paragraph 4.0 of this document, **Recommendation (7)** in relation to the DBS update service.

Currently, the licensing authority undertakes an enhanced DBS check and the children and adult Barred Lists every 3 years.

Recommendations:

- (22) That the Licensing Committee notes that current practices and procedures in relation to checks on the children and adult Barred lists accord with the DfT Statutory Guidance.
- (23) That the Licensing Committee require all drivers to be subject to an enhanced check with the DBS service (including the children and adult Barred Lists) every 6 months.

6.1 **Safeguarding awareness**

DfT Guidance: *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.*

PCC Policy:

Paragraph 5.3 above in this document refers to current policy requirements for mandatory driver training which includes a separate module for safeguarding and exploitation.

Recommendations:

- (24) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

6.2 **"County lines" exploitation**

DfT Guidance: *Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation.*

PCC Policy:

See Paragraph 6.2 above.

Recommendations:

- (25) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

6.3 Language proficiency

DfT Guidance: *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.*

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.

PCC Policy:

Paragraph 5.3 above in this document refers to current policy requirements for mandatory English language competency and proficiency of new driver applicants.

Recommendations:

(26) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

Section 7: Vehicle Licensing

7.0 Criminality checks for vehicle proprietors

DfT Guidance: *Enhanced DBS and barred list checks are not available for vehicle licensing. Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.*

PCC Policy:

The current policy indicates that vehicle proprietors may be subject to basic checks.

Recommendations:

(27) That the Licensing Committee amend the current statement of licensing policy and, conditions where necessary, to require that all vehicle proprietors shall undergo an annual basic DBS check.

7.1 In-vehicle visual and audio recording - CCTV

DfT Guidance: *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.*

PCC Policy:

The current policy is to mandatorily require the use of in-car CCTV cameras in both licensed hackney carriages and private hire vehicles (to include "temporary use" vehicles).

Recommendations:

(28) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

7.2 Stretched Limousines

DfT Guidance: *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.*

PCC Policy:

The current statement of licensing policy permits these type of vehicles to be licensed, on individual merit and after appropriate vehicle type approval tests outside of the normal vehicle specification requirements.

Recommendations:

(29) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

Section 8: Private Hire Vehicle Operator Licensing

8.0 Criminality checks for private hire vehicle operators

DfT Guidance: *Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.*

PCC Policy:

The current statement of licensing policy requires all operators to provide a basic disclosure from the DBS on renewal of the licence.

Recommendations:

(30) That the Licensing Committee amend the current statement of licensing policy and, conditions where necessary, to require that all private hire operators shall undergo an annual basic DBS check.

8.1 Booking and dispatch staff

DfT Guidance: *Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.*

DfT Guidance: *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.*

DfT Guidance: *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.*

PCC Policy:

There are currently no policy requirements in relation to private hire operators maintaining a register of all staff that will take bookings or dispatch vehicles.

Recommendations:

(31) That the Licensing Committee approve the following conditions in relation to all private hire operators:

- **The operator shall maintain a register of all staff employed for the purposes of taking bookings and/or dispatching vehicles.**
- **The register shall contain the full name, current address and date of birth of the individual employed to undertake and dispatch bookings.**
- **The register shall also provide the date that a basis DBS check was provided to the operator**
- **The operator will produce this register, on request, to an authorised officer of the council or police officer.**
- **The operator will also be required to provide, on request by an authorised officer or police officer, a copy of their policy on employing ex-offenders in roles that would be on the register.**

8.2 Record Keeping

DfT Guidance: Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator.

Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:

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

PCC Policy:

The operator shall maintain, for a period of 12 months, a record of every booking for a private hire vehicle or hackney carriage vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator (from within the district or elsewhere) and shall produce such records, including transcripts of any phone calls associated with a booking, within 24 working hours on request to any authorised officer of the council or to any Police Officer.

The records shall contain:-

- (a) The time and date the booking was made;
- (b) The name and contact telephone details of the hirer;
- (c) The time and date of the pick-up address
- (d) The destination(s)
- (e) The vehicle and driver details allocated to the hiring.
- (f) If available, and for a period of 6 months, the Global Positioning Signal (GPS) vehicle tracking movements for the booking
- (g) A unique identifier and reference in respect of all bookings for private hire vehicle accepted by the operator from another Portsmouth operator OR from a person licensed to operate outside of Portsmouth and bookings passed on to another operator whether within Portsmouth or elsewhere

Recommendations:

(32) That the Licensing Committee amend the current private hire operator condition number 5 relating to booking records to include:

- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.3 Use of passenger carrying vehicles (PCV) licensed drivers

DfT Guidance: PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

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

PCC Policy:

There is no reference to PSVs and PCV drivers within the current statement of licensing policy.

Recommendations:

(33) That the Licensing Committee amend the current private hire operator conditions to include the following:

- **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 shall not be permitted without the informed consent of the person booking the journey.**

Section 9: Enforcing the Licensing Regime

9.0 Joint authorisation of enforcement officers

DfT Guidance: *Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).*

PCC Policy:

We have local arrangements with other local authorities in Hampshire and IOW to jointly authorise officers where the need arises - for example a joint operational order targeting vehicles licensed with other authorities and where those officers are assisting in the operation.

This is co-ordinated through the Hampshire and IOW Licensing Officers Group.

Recommendations:

(34) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

9.1 Setting expectations and monitoring

DfT Guidance: *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.*

DfT Guidance: *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.*

PCC Policy:

The current statement of licensing policy includes a "penalty point system" which was first introduced by the Licensing Committee in 1994 and has been used as a "fast track" and parallel disciplinary code for:

- Licence holders breaching conditions
- Non compliance with the provisions of the 1847 and 1976 Acts
- General unsatisfactory conduct
- Sanctions following receipt of complaints from the public, other road users and the trade about the conduct of licence holders.

- All licensed vehicles are required to display signage in the vehicle giving details of how the public can make complaints about drivers etc.

Recommendations:

(35) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

9.2 Suspension and revocation of driver licences

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

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

PCC Policy:

The current policy sets out comprehensive information as regards enforcement and compliance and has regard to the use of suspensions/revocations when dealing with concerns as to the fit and properness of a driver.

Recommendations:

(36) That the Licensing Committee notes that current practices and procedures accord with the DfT Statutory Guidance.

Further Recommendations:

Section 10: Age Limits for Wheelchair Accessible Vehicles

Current PCC Policy:

On [18 December 2020](#), the Licensing Committee amended its statement of licensing policy in respect of the age specifications of vehicles as follows:

1. The Licensing Committee approved the proposed amendments to the Statement of Licensing Policy (reference - minute 9/2016) as follows:
 - (i) That, as a matter of local policy and condition for both hackney carriage and private hire vehicle licenses; all private hire and hackney carriage vehicles presented for initial licensing shall be under 4 years of age on first licensing; and
 - ii) Any vehicle may be relicensed until 8 years of age, provided the vehicle meets with the requirements of the PATN guidance as approved by the Council and is supported by an evidenced service history in line with the manufacturers guidelines;

iii) That the upper age limit for licensed vehicles is to come into effect on 1st January 2022.

2. That the following statement be attached to the Statement of Licensing Policy (reference - minute 9/2016) in order to secure £0.5 million for rapid EV charging points specifically for use by the hackney carriage and private hire fleet:

"That all newly licensed vehicles be Zero Emissions Capable from 5 the 1st January 2025".

3. The licensing committee endorsed the proposal that officers will seek to negotiate a restructuring of funding from central Governments Joint Air Quality Unit, in that a greater amount be allocated to Wheelchair Accessible Vehicles.

10.0 Feedback and proposals for amendments to the existing policy

Since the adoption of the amendments to the policy last year in relation to upper age limits for licensed vehicles, a number of representations have been received from the hackney carriage and private hire trade as regards the negative impact of this requirement on the licensing of wheelchair accessible vehicles in the City. A number of proprietors have referred to the cost of purchasing WAVs and that the upper age limit of 8 years makes the purchase of these specific vehicles unviable in terms of earning potential over the "life" of the vehicle.

The Licensing Service has seen a reluctance by the hackney carriage and private hire trade to purchase "like for like" new WAVs for this reason and there is evidence to show that when vehicles are replaced, the new vehicle is smaller in terms of capacity than the more traditional WAVs. Whilst these vehicles meet with the current specifications for licensing, there are concerns that this may have a detrimental impact on the overall WAV fleet of vehicles and could even be discouraging private hire proprietors from purchasing such vehicles.

It is proposed that the extension of the upper age limit for the licensing of WAVs from 8 years to 12 years will improve the viability of purchasing such vehicles by proprietors and will offer better choice and service to those passengers who rely on WAVs for their transportation needs.

Recommendations:

- (37) That the Licensing Committee amend its current statement of licensing policy to amend the upper age limit for wheelchair accessible vehicles (WAVs) from 8 years of age to 12 years of age, provided the vehicle meets with the requirements of the PATN guidance as approved by the Council and is supported by an evidenced service history in line with the manufacturers' guidelines with effect from 1 August 2022;

Scheme of Delegation

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
<p>1 Determination of all policy matters relating to the hackney carriage and private hire undertaking</p> <p>To include determining the number of hackney carriages licensed to ply for hire within the city AND</p> <p>If mindful of retaining a fixed number of hackney carriages to appoint appropriate consultants' to carry out any future "unmet demand" surveys</p>	In all cases		
<p>2 Determination and approval of all standard conditions for operators, vehicles and drivers to include any variations and amendments.</p> <p>Determination of "numeric thresholds" against vehicle proprietors, operators and drivers for the purposes of a sub-committee appearance resulting from the penalty points scheme and to vary, substitute or modify the penalty points scheme</p>	In all cases		
<p>3 Determination and approval of hackney carriage byelaws to include any proposed variations and amendments for consideration by the Secretary of State</p>	In all cases		
<p>4 Determination of all fees* and charges in respect of the private hire and hackney carriage undertaking</p> <p>*but for the head of service to authorise such refunds or amendments to respective operator, vehicle or driver fees as appropriate.</p>	In all cases		
<p>5 Grant or renewal of hackney carriage vehicle licence to include a temporary use licence</p>			In all cases
<p>6 Refusal to grant, renew, suspend* or revoke a hackney carriage vehicle licence including a temporary vehicle licence</p> <p>*under section 60 of the 1976 act</p>		In all cases	
<p>7 Grant or renewal of hackney carriage driver licence</p>			In all cases
<p>8 Refusal to grant, renew or to revoke* a hackney carriage driver licence</p> <p>*but see 24 post</p>		In all cases	
<p>9 Grant or renewal of private hire operator licence</p>			In all cases
<p>10 Refusal to grant, renew, suspend or revoke a private hire operator licence</p>		In all cases	
<p>11 Grant or renewal of private hire vehicle licence to include a temporary use licence</p>			In all cases

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
12 Refusal to grant, renew, suspend* or revoke a private hire vehicle licence including a temporary vehicle licence *under section 60 of the 1976 act		In all cases	
13 Grant or renewal of private hire driver licence			In all cases
14 Refusal to grant, renew or to revoke* a private hire driver licence *but see 24 below		In all cases	
15 Grant or refusal/revocation of a notice of exemption for hackney carriage or private hire driver from carrying guide, hearing or assistance dogs on medical grounds – Disability Discrimination Act 1995 as amended			In all cases and subject to satisfactory medical enquiry and reports being received
16 Determination of whether a vehicle is deemed “silver” or not and to refuse to grant or renew or to suspend a respective hackney carriage or private hire vehicle licence on these grounds accordingly			In all cases
17 Determination of passenger seating capacity for a hackney carriage or private hire vehicle			In all cases
18 Design of private hire operator paper licences			In all cases
19 Design of hackney carriage and private hire vehicle paper licences, windscreen licence discs, licence plates and all internal notices			In all cases
20 Design of hackney carriage and private hire driver paper licences and their respective badges			In all cases
21 Design of approved internal and external corporate livery for both hackney carriage and private hire vehicles and to grant or refuse permission for any other external or internal sign(s)			In all cases but in consultation with corporate communications
22 Design and content of all hackney carriage and private hire application forms to include any other required form(s) or notices commensurate with the provisions of the 1847 and 1976 acts. ‘Content’ includes the receipt of any further information that the Licensing Manager considers appropriate in order to determine whether a person is “fit and proper”.			In all cases
23 Suspension* of hackney carriage or private hire vehicle licences pursuant to section 68 of the 1976 act *with the sub-committee considering vehicle suspensions pursuant to section 60 of the 1976 act			In all cases

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
24 Suspension of hackney carriage or private hire driver licences pursuant to section 61 of the 1976 act and/or to revoke, with immediate effect, an existing hackney carriage or private hire driver licence having regard to the “interests of public safety” ¹⁴			In all cases
25 Determination of application for exemption from the requirements to have CCTV in a private hire vehicle – NO EXEMPTION FOR HACKNEY CARRIAGES			In all cases
26 Determination of application for plate and/or livery exemption for private hire vehicles – NO EXEMPTION FOR HACKNEY CARRIAGES			In all cases
27 The grant or renewal, after consideration on individual merit, of a hackney carriage or private hire driver licence for a limited duration		If necessary	In all cases
28 The imposition of special conditions for private hire operator, private hire vehicle, hackney carriage vehicle or private hire driver licences as appropriate			In all cases but not to amend the standard conditions for the time being in force
29 The refusal to grant or renew a hackney carriage or private hire driver licence in certain EXCEPTIONAL circumstances			<p>In all cases BUT only by reason of:</p> <ol style="list-style-type: none"> 1. Evidenced repeated knowledge test failure 2. Evidenced poor communication skills 3. Evidenced medical concerns 4. Failure of prescribed driving and or other competency tests as prescribed

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
30 Fixing of hackney carriage fares	To receive trade proposals and to make such recommendations to the cabinet as appropriate		
31 Appointment of hackney stands (to include proposed variations and revocations to such stands)	To receive trade proposals and to make such recommendations to the cabinet member for Traffic & Transportation as appropriate		
32 To determine and appoint hackney carriage and private hire trade representatives and to rescind any appointment if appropriate			In all cases
33 Any changes to the committee's prescribed vehicle mechanical and cosmetic inspection testing report for hackney carriage and private hire vehicles			In all cases and after discussion with the council's appointed vehicle testing contractor
34 Penalty points scheme – power to issue points		If necessary	In all cases
35 Consideration of any disciplinary action against licence holders for reaching the appropriate penalty points "thresholds"		In all cases	
36 To instruct the City Solicitor to commence proceedings for any offences and/or to offer a simple caution or attendance by an applicant or licence holder at any training course(s)			In all cases

APPENDIX B

Guidelines on the relevance of convictions and behaviour

DfT Statutory Guidance	Institute of Licensing Guidance	PCC Current Policy
Type of Conviction: 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 .	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 .	For convictions of GBH (or with intent), wounding, manslaughter, murder or any terrorism linked offences, the committee is unlikely to support an application .
Type of Conviction: 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.	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 exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.	Any violence offence(s) to include threatening behaviour, domestic abuse, harassment and stalking matters , possession of offensive weapons, more serious public order matters, resisting arrest, criminal damage, arson etc - Normally a minimum 5 (and up to 10) year ban from obtaining or holding licence For convictions of grooming , sexual assault, rape and/or offences against children or vulnerable adults or for persons on the sex offenders register , the committee is unlikely to support an application .

DfT Statutory Guidance	Institute of Licensing Guidance	PCC Current Policy
Type of Conviction: 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.	Where an applicant has a conviction for an offence of violence, 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.	Normally a minimum 5 (and up to 10) year ban from obtaining or holding licence For convictions of GBH (or with intent), wounding or any terrorism linked offences, the committee is unlikely to support an application.
Type of Conviction: 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.	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 7 years have elapsed since the completion of any sentence imposed.	Any violence offence(s) to include threatening behaviour, domestic abuse, harassment and stalking matters, possession of offensive weapons , more serious public order matters, resisting arrest, criminal damage, arson etc Normally a minimum 5 (and up to 10) year ban from obtaining or holding licence For convictions of GBH (or with intent), wounding , manslaughter, murder or any terrorism linked offences, the committee is unlikely to support an application.

DfT Statutory Guidance	Institute of Licensing Guidance	PCC Current Policy
Type of Conviction: Sexual Offences		
<p>Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.</p> <p>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.</p>	<p>Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.</p> <p>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.</p>	<p>Any sexual offence(s) to include sexual assault, indecency, indecent assault, gross indecency, grooming, sexual trafficking offences, having or downloading obscene material, possession of indecent images, rape.</p> <p>Normally a minimum 10 year ban from obtaining or holding a licence</p> <p>For convictions of grooming, sexual assault, rape and/or offences against children or vulnerable adults or for persons on the sex offenders register, the committee is unlikely to support an application.</p>
Type of Conviction: Dishonesty		
<p>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.</p>	<p>Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.</p>	<p>Any dishonesty offence(s) to include theft, shop lifting, handling, fraud, burglary, making false statements, perjury etc.</p> <p>Normally a minimum 5 (and up to 10) year ban from obtaining or holding a licence.</p>

DfT Statutory Guidance	Institute of Licensing Guidance	PCC Current Policy
Type of Conviction: Drugs		
<p>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.</p> <p>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.</p>	<p>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.</p> <p>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 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.</p>	<p>Any substance abuse offence(s) and to include evidence of illicit drug use either by way of medical examination or drug test failure (To include drink, drugs or use of legal highs)</p> <p>Normally a 3 year ban from obtaining or holding a licence and any future application to include appropriate and supporting medical reports if necessary</p>
Type of Conviction: Discrimination		
<p>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.</p>	<p>Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.</p>	<p>No specific reference in the policy but see "Other Considerations" below.</p>

DfT Statutory Guidance	Institute of Licensing Guidance	PCC Current Policy
Type of Conviction: Motoring Offences		
<p>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 <u>while</u> 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.</p>	<p>Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.</p>	<p>Motoring offence(s) to include endorsements, short disqualifications, totting up disqualifications, drink drive, no insurance, driving without due care, reckless or dangerous driving, failure to control a motor vehicle by using a mobile phone or other device, failure to comply with prescribed road traffic signs, failure to stop or to report an accident, defective vehicle and illegal parking etc</p> <p>Normally a verbal warning for endorsements and less than 8 penalty points</p> <p>If more than 8 current penalty points endorsed on a driving licence then refer to Licensing Sub-Committee for determination on merit</p> <p>For "one off" short disqualifications licence may be restored at end of disqualification by officers subject to a written warning and compliance with any directives to attend and pass approved driving competency tests.</p>

DfT Statutory Guidance	Institute of Licensing Guidance	PCC Current Policy
Conviction Type: Drink driving/driving under the influence of drugs		
<p>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.</p> <p>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.</p>	<p>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 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.</p>	<p>For no insurance, drink driving, careless driving, failing to stop or report an accident etc normally a 3 year ban from obtaining a licence</p> <p>For offences of causing death by reckless or dangerous driving, repeated drink drive convictions, the committee is unlikely to support an application</p>
Conviction Type: Using a hand-held device whilst driving		
<p>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.</p>	<p>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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.</p>	<p>Motoring offence(s) to include, failure to control a motor vehicle by using a mobile phone or other device, normally a verbal warning for endorsements and less than 8 penalty points</p> <p>If more than 8 current penalty points endorsed on a driving licence then refer to Licensing Sub-Committee for determination on merit.</p>

DfT Statutory Guidance	Institute of Licensing Guidance	PCC Current Policy
Conviction Type: Other Motoring Offences		
<p>See narrative in Motoring Offences above</p>	<p>A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles).</p> <p>Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.</p> <p>A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance.</p> <p>Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.</p>	<p>Motoring offence(s) to include endorsements, short disqualifications, totting up disqualifications, drink drive, no insurance, driving without due care, reckless or dangerous driving, failure to control a motor vehicle by using a mobile phone or other device, failure to comply with prescribed road traffic signs, failure to stop or to report an accident, defective vehicle and illegal parking etc</p> <p>Normally a verbal warning for endorsements and less than 8 penalty points</p> <p>If more than 8 current penalty points endorsed on a driving licence then refer to Licensing Sub-Committee for determination on merit</p> <p>For "one off" short disqualifications licence may be restored at end of disqualification by officers subject to a written warning and compliance with any directives to attend and pass approved driving competency tests</p> <p>For no insurance, drink driving, careless driving, failing to stop or report an accident etc normally a 3 year ban from obtaining a licence</p>

DfT Statutory Guidance	Institute of Licensing Guidance	PCC Current Policy
Conviction Type: Hackney Carriage and Private Hire Offences		
No specific reference in Statutory Guidance	Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.	Any offence(s) against the 1847 or 1976 Acts to include the byelaws and a breach of conditions constituting an offence at law. Normally a 1 year ban from obtaining or holding a licence after date of conviction
Conviction Type: Vehicle Use Offences		
No specific reference in Statutory Guidance	Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.	No specific reference in PCC Policy
General Inappropriate Conduct not leading to conviction - PCC Policy		
		General inappropriate conduct to include that of a sexual nature, persistent and justified complaints (service requests) against an individual driver OR due to any other matters not specifically mentioned above and/or where the reporting officer is not prepared to support an application or continued licensing. Normally a 5 year ban from obtaining or holding a licence.

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Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:



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Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC
Cornerstone Barristers

April 2018

Chapter 1: Introduction

- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the

¹ Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

² [2007] 1 WLR 2067

Chapter 2: Offenders and Offending - An Overview

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.³ With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm⁴. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

³ DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

⁴ Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud⁵ noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place⁶.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future⁷. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%⁸. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences⁹.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity¹⁰. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population¹¹. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

⁵ Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁶ Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁷ Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

⁸ Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

⁹ Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

¹⁰ McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

¹¹ Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”¹².
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”¹³.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over¹⁴. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships¹⁵. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males¹⁶.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist¹⁷. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance¹⁸. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

¹² National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

¹³ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

¹⁴ Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

¹⁵ Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

¹⁶ Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

¹⁷ Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

¹⁸ Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3rd Edition. Oxford: Oxford University Press.

ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”¹⁹.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

¹⁹ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

Chapter 3: 'Taxi' Licensing Overview

- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory

criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person²⁰.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK²¹.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.²²
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*²³. Silber J said:
- “... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’²⁴
- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

²⁰ Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

²¹ Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

²² “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1st December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

²³ [2002] EWHC 1145 (Admin), [2003] RTR 199

²⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 10.21

3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?

3.19 The local authority has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”²⁵

This “information” can include any pre-conditions or tests that they consider necessary

3.20 Some of these are universal, such as medical assessments²⁶. Others are required by some authorities, but not others. These include:

- Enhanced DBS certificates and sign-up to the update service;
- Knowledge tests;
- Driving tests;
- Disability Awareness;
- Signed Declarations;
- Spoken English tests.

3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared²⁷) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker²⁸.

3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks²⁹ and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

²⁵ Local Government (Miscellaneous Provisions) Act 1976 s57(1)

²⁶ See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

²⁷ “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

²⁸ See *Adamson v Waveney District Council* [1997] 2 All ER 898

²⁹ “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability³⁰.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account³¹. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

³⁰ As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

³¹ *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority³². A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person³³.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”³⁴
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

³² See *Dittah v Birmingham City Council*, *Choudhry v Birmingham City Council* [1993] RTR 356 QBD

³³ Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

³⁴ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 12.35

obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation³⁵. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence³⁶ and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

³⁵ See s57(1)(c) of the 1976 Act.

³⁶ S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.

satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”³⁷

³⁷ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 8.98

Chapter 4: Guidance on Determination

- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

Vehicles:

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.

Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership³⁸) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

³⁸ Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction³⁹. Fixed penalties and community resolutions will also be considered in the same way as a conviction⁴⁰.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

³⁹ This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

⁴⁰ This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

- 4.29 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

- 4.30 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 exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

- 4.31 Where an applicant has a conviction for an offence of violence, 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

- 4.32 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 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 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

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Drugs

- 4.36 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.
- 4.37 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 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 4.40 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 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

- 4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

- 4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

- 4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Acknowledgements

In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

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This project has been further enhanced by invaluable contributions from the following individuals and organisations:

- Ellie Greenwood and Rebecca Johnson, Local Government Association
- Tim Briton, Lawyers in Local Government
- Ben Atrill
- Suzy Lamplugh Trust
- Councillor Richard Wright, North Kesteven District Council
- Professor of Criminology Fiona Measham, Durham University
- Councillor Philip Evans, Conwy County Borough Council
- Councillors Catriona Morris and Mick Legg, Milton Keynes Council
- Louise Scott Garner
- Jenna Parker, Institute of Licensing

Finally, grateful thanks go to all those who responded to the initial fact-finding survey and the subsequent consultation on the draft guidance.

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The Institute of Licensing (IoL) is the professional body for licensing practitioners across the UK.
www.instituteoflicensing.org



The Local Government Association (LGA) is the national voice of local government.
www.local.gov.uk



Lawyers in Local Government (LLG). www.lawyersinlocalgovernment.org



National Association of Licensing and Enforcement Officers (NALEO). www.naleo.org.uk

Integrated Impact Assessment (IIA)

Integrated impact assessment (IIA) form December 2019

www.portsmouth.gov.uk

The integrated impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies that could impact positively or negatively on the following areas:
 - Communities and safety
 - Regeneration and culture
 - Environment and public space
 - Equality & diversity

Directorate:

Culture, Leisure and Regulatory Services

Service, function:

Licensing

Title of policy, service, function, project or strategy (new or old) :

Hackney Carriage and Private Hire Statement of Licensing Policy - Proposed Amendments for Consultation - December 2021

Type of policy, service, function, project or strategy:

- Existing
- New / proposed
-

What is the aim of your policy, service, function, project or strategy?

The Hackney Carriage and Private Hire Statement of Licensing Policy sets out the way in which the Licensing Authority will exercise its statutory duty for the control, supervision and enforcement of the hackney carriage and private hire trade within Portsmouth.

Has any consultation has been undertaken for this proposal? What were the outcomes of the consultations? Has anything changed because of the consultation? Did this inform your proposal?

The current policy is being reviewed having regard to the Secretary of State for Transport published statutory best practice guidance for taxi and private hire standards in July 2020 along with other considerations in respect of PCC livery on licensed vehicles and upper age limits for wheelchair accessible vehicles (WAVs).

A - Communities and safety

Yes

No

Is your policy, proposal relevant to the following questions?

A1-Crime - Will it make our city safer?



In thinking about this question:

- How will it reduce crime, disorder, ASB and the fear of crime?
- How will it prevent the misuse of drugs, alcohol and other substances?
- How will it protect and support young people at risk of harm?
- How will it discourage re-offending?

If you want more information contact Lisa.Wills@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-spp-plan-2018-20.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

The current recommendations to review the Council's existing policy in line with the DfT statutory best practice guidance will ensure that the primary and overriding objective of the policy will be to protect the public, which includes the most vulnerable in the community and also meet with the statutory duty to have regard to the published guidance.

The use of livery on a licensed vehicle clearly identifies its use and purpose and differentiates between a private hire and hackney carriage. It also, perhaps more importantly, distinguishes between licensed vehicles and those which are unlicensed.

It offers a reassurance to members of the public that the vehicle is licensed by Portsmouth and the livery is designed in such a way that members of the public or other road users can identify the number of the vehicle should the conduct of the driver or the condition of the vehicle need to be reported to the licensing authority.

Consideration of increasing the upper age for wheelchair accessible vehicles (WAVs) will ensure that sufficient vehicles are available for persons with mobility requirements.

How will you measure/check the impact of your proposal?

Will keep the policy under regular review and, in relation to the statutory guidance, engage with the DfT on future consultation exercises

A - Communities and safety

Yes

No

Is your policy, proposal relevant to the following questions?

A2-Housing - Will it provide good quality homes?



In thinking about this question:

- How will it increase good quality affordable housing, including social housing?
- How will it reduce the number of poor quality homes and accommodation?
- How will it produce well-insulated and sustainable buildings?
- How will it provide a mix of housing for different groups and needs?

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/psh-providing-affordable-housing-in-portsmouth-april-19.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

A - Communities and safety	Yes	No
-----------------------------------	------------	-----------

Is your policy, proposal relevant to the following questions?

A3-Health - Will this help promote healthy, safe and independent living?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	-------------------------------------

In thinking about this question:

- How will it improve physical and mental health?
- How will it improve quality of life?
- How will it encourage healthy lifestyle choices?
- How will it create healthy places? (Including workplaces)

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/psh-providing-affordable-housing-in-portsmouth-april-19.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

A - Communities and safety	Yes	No
-----------------------------------	------------	-----------

Is your policy, proposal relevant to the following questions?

A4-Income deprivation and poverty -Will it consider income deprivation and reduce poverty?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
---	--------------------------	-------------------------------------

In thinking about this question:

- How will it support those vulnerable to falling into poverty; e.g., single working age adults and lone parent households?
- How will it consider low-income communities, households and individuals?
- How will it support those unable to work?
- How will it support those with no educational qualifications?

If you want more information contact Mark.Sage@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-homelessness-strategy-2018-to-2023.pdf>
<https://www.portsmouth.gov.uk/ext/health-and-care/health/joint-strategic-needs-assessment>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

A - Communities and safety

Yes

No

Is your policy, proposal relevant to the following questions?

A5-Equality & diversity - Will it have any positive/negative impacts on the protected characteristics?



In thinking about this question:

- How will it impact on the protected characteristics-Positive or negative impact (Protected characteristics under the Equality Act 2010, Age, disability, race/ethnicity, Sexual orientation, gender reassignment, sex, religion or belief, pregnancy and maternity, marriage and civil partnership, socio-economic)
- What mitigation has been put in place to lessen any impacts or barriers removed?
- How will it help promote equality for a specific protected characteristic?

If you want more information contact gina.perryman@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cmu-equality-strategy-2019-22-final.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

The proposed amendments in relation to upper age limits for licensing WAVs will provide further choice for those with mobility disabilities.

How are you going to measure/check the impact of your proposal?

Will monitor the issuing of licences for WAVs to determine whether the amendment to policy has brought about positive change

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B1-Carbon emissions - Will it reduce carbon emissions?



In thinking about this question:

- How will it reduce greenhouse gas emissions?
- How will it provide renewable sources of energy?
- How will it reduce the need for motorised vehicle travel?
- How will it encourage and support residents to reduce carbon emissions?

If you want more information contact Tristan.thorn@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cmu-sustainability-strategy.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B2-Energy use - Will it reduce energy use?



In thinking about this question:

- How will it reduce water consumption?
- How will it reduce electricity consumption?
- How will it reduce gas consumption?
- How will it reduce the production of waste?

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/psh-providing-affordable-housing-in-portsmouth-april-19.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B3 - Climate change mitigation and flooding-Will it proactively mitigate against a changing climate and flooding ?



In thinking about this question:

- How will it minimise flood risk from both coastal and surface flooding in the future?
- How will it protect properties and buildings from flooding?
- How will it make local people aware of the risk from flooding?
- How will it mitigate for future changes in temperature and extreme weather events?

If you want more information contact Tristan.thorn@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/env-surface-water-management-plan-2019.pdf>
<https://www.portsmouth.gov.uk/ext/documents-external/cou-flood-risk-management-plan.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B4-Natural environment-Will it ensure public spaces are greener, more sustainable and well-maintained?



In thinking about this question:

- How will it encourage biodiversity and protect habitats?
- How will it preserve natural sites?
- How will it conserve and enhance natural species?

If you want more information contact Daniel.Young@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/pln-solent-recreation-mitigation-strategy-dec-17.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B5-Air quality - Will it improve air quality?



In thinking about this question:

- How will it reduce motor-vehicle traffic congestion?
- How will it reduce emissions of key pollutants?
- How will it discourage the idling of motor vehicles?
- How will it reduce reliance on private car use?

If you want more information contact Hayley.Trower@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/env-aq-air-quality-plan-outline-business-case.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

B - Environment and climate change

Yes

No

Is your policy, proposal relevant to the following questions?

B6-Transport - Will it improve road safety and transport for the whole community?



In thinking about this question:

- How will it prioritise pedestrians, cyclists and public transport users over users of private vehicles?
- How will it be safe and comfortable for children and older people to cycle and walk in the area?
- How will it increase the proportion of journeys made using sustainable and active transport?
- How will it reduce the risk of traffic collisions, and near misses, with pedestrians and cyclists?

If you want more information contact Pam.Turton@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/travel/local-transport-plan-3>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

If the policy is rescinded then licensed vehicles may not be as easy to identify. Therefore, therefore pedestrians, cyclists, other road users may find it more difficult to make complaints to the licensing authority if they are unable to identify the vehicle and the licensing authority.

How are you going to measure/check the impact of your proposal?

Is your policy, proposal relevant to the following questions?

B7-Waste management - Will it increase recycling and reduce the production of waste?

In thinking about this question:

- How will it reduce household waste and consumption?
- How will it increase recycling?
- How will it reduce industrial and construction waste?

If you want more information contact Steven.Russell@portsmouthcc.gov.uk or go to:

<https://documents.hants.gov.uk/mineralsandwaste/HampshireMineralsWastePlanADOPTED.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

C - Regeneration of our city

Yes

No

Is your policy, proposal relevant to the following questions?

C1-Culture and heritage - Will it promote, protect and enhance our culture and heritage?



In thinking about this question:

- How will it protect areas of cultural value?
- How will it protect listed buildings?
- How will it encourage events and attractions?
- How will it make Portsmouth a city people want to live in?

If you want more information contact Claire.Looney@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/pln-portsmouth-plan-post-adoption.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

Portsmouth has a comprehensive policy for the control, supervision of the hackney carriage and private trade. Driver's and vehicle's are sometimes the first point of contact for visitors to the city and we want to ensure that people feel safe whilst visiting and living in the city. Without necessary protection and public reassurance, this could have a damaging effect upon the city and its reputation.

How are you going to measure/check the impact of your proposal?

C - Regeneration of our city

Yes

No

Is your policy, proposal relevant to the following questions?

C2-Employment and opportunities - Will it promote the development of a skilled workforce?



In thinking about this question:

- How will it improve qualifications and skills for local people?
- How will it reduce unemployment?
- How will it create high quality jobs?
- How will it improve earnings?

If you want more information contact Mark.Pembleton@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-regeneration-strategy.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

Empty text box for response

How are you going to measure/check the impact of your proposal?

Is your policy, proposal relevant to the following questions?

C3 - Economy - Will it encourage businesses to invest in the city, support sustainable growth and regeneration?

In thinking about this question:

- How will it encourage the development of key industries?
- How will it improve the local economy?
- How will it create valuable employment opportunities for local people?
- How will it promote employment and growth to the city?

If you want more information contact Mark.Pembleton@portsmouthcc.gov.uk or go to:

<https://www.portsmouth.gov.uk/ext/documents-external/cou-regeneration-strategy.pdf>

Please expand on the impact on these issues your proposal will have, and how you propose to mitigate any negative impacts?

How are you going to measure/check the impact of your proposal?

Q8 - Who was involved in the Integrated integrated assessment?

Ross Lee - Principal Licensing Officer

This IIA has been approved by:

Contact number:

Date:

Agenda Item 5



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(Please note that "Information Only" reports do not require Integrated Impact Assessments, Legal or Finance Comments as no decision is being taken)

Title of meeting:	Licensing Committee
Subject:	Trial to allow Portsmouth City Council Licensed Private Hire Vehicles (PHV's) in bus lanes in Portsmouth
Date of meeting:	25 th July 2022
Report by:	Tristan Samuels - Director of Regeneration
Wards affected:	All

1. Requested by

1.1 Report requested by the Licensing Committee.

2. Purpose

- 2.1 The purpose of this report is to provide an update on the recently approved changes to the Private Hire Vehicles in bus lanes trial following the decisions taken by the Cabinet Member for Traffic & Transportation on 5th July 2022. The report details these changes and the justifications for these amendments.
- 2.2 The following recommendations were taken by the Cabinet Member for Traffic & Transportation on 5th July 2022:
- A trial was approved to allow access for Portsmouth City Council Licensed Private Hire Vehicles to use a limited number of five bus lanes in Portsmouth for a minimum of 3 months including:
 - Cavell Drive,
 - Marketway,
 - Mile End Road,
 - Bishop Crispian Way,
 - and Queen Street.
 - Delegated authority to immediately cease any or all of the five trial locations if safety issues become apparent.
 - Delegated authority to the Director of Regeneration in consultation with the Cabinet Member for Traffic and Transportation and the Section 151 Officer to

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release funding to undertake the monitoring and evaluation of this trial as the details are developed, this will be funded from the Parking Reserve.

- Noted that consultation will continue with the working group and licensing committee will continue as the project develops.
- Noted that a report will be brought back to Traffic & Transportation within 6 months of the trial launch to provide an update on the trial progression and next steps.

3. Background

- 3.1 Taxis and private hire vehicles are an important mode of transport for many, providing 24-hour on-demand travel across the city. This trial, and amendments, would support this mode transport option, potentially enabling improved journey times through access to the priority lanes.
- 3.2 As outlined in the recently adopted Portsmouth Transport Strategy 2021-2038, a key part of reducing demand to own private cars will be to provide residents with the confidence that they have alternative transport modes available to make various trips. This will include access to public transport, taxis and private hire vehicles and other sustainable transport options.
- 3.3 Portsmouth currently has 53 bus lanes in the city, providing a combined total of 9.8 km of dedicated right of way.
- 3.4 Bus lanes are traffic lanes reserved for the use of buses and other authorised vehicles which are to be given priority. They provide a dedicated right of way, enabling buses to avoid queues of traffic and other sources of delay, and address the problem of bus travel times becoming substantially longer and less reliable and attractive than those possible by car.
- 3.5 The vehicle types permitted to use each bus lane in Portsmouth are specified in the relevant Traffic Regulation Order (TROs). These currently include buses, Hackney Carriages (taxis), cyclists and emergency service vehicles travelling under blue lights, as well as rental e-scooters through the DfT e-scooter trial operating in Portsmouth.
- 3.6 Under the 1985 Road Traffic Act, the Local Transport Authority is accountable to the Traffic Commissioner for any action that it has taken which negatively impacts on bus punctuality.
- 3.7 Following the decision taken at Traffic & Transportation on the 13th December 2021 to postpone and redevelop the trial, work has progressed on the development of the

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trial, including the setup of a group of stakeholders that are being consulted as part of the trial, an assessment of the bus lanes to be put forward for the trial and road safety audits on those shortlisted.

3.8 As a result of concerns raised by the stakeholders in conjunction with the then recent changes to the highway code and a review of available accident data, the Cabinet Member for Traffic & Transportation took the decision to postpone the trial until the following actions had been completed:

- A review of the monitoring methods being proposed, by which will be used to provide the necessary information to assess the impacts of the trial.
- All bus lanes with existing infrastructure such as enforcement cameras, Bluetooth journey time monitoring equipment etc., that would enable us to improve the monitoring of the impacts of the trial were subject to additional reviews.
- An assessment of each of these bus lanes considering road speed, layout, proximity to accident hotspots and the availability of adjacent cycle infrastructure was then carried out and a shortlist of viable lanes was compiled.
- Road Safety Audits were then undertaken on the five shortlisted bus lanes, following the above assessment, to confirm their suitability for the trial.

4. Trial Proposals

4.1 Following these further actions and assessment, it was approved at Traffic and Transportation Cabinet meeting that a trial allowing Portsmouth City Council (PCC) private hire licensed vehicles access into five bus lanes in Portsmouth will be established.

4.2 The five bus lanes approved for this initial trial are as follows:

- Cavell Drive
- Marketway
- Mile End Road
- Bishop Crispian Way
- Queen Street

These bus lanes were identified as outlined in section 3.8 and a map showing the bus lanes is outlined in appendix A of this report.

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- 4.3 The confirmed trial lanes comprise different layouts and conditions such as signalled junctions, varying road speeds, and the presence of parallel lanes catering to normal traffic, enabling us to monitor the impacts of the trial for a range of different scenarios present across the city
- 4.4 This closely monitored trial will provide information and data to understand the potential impacts of the trial as set out in section 5.1. This will be reported back in a report to the Cabinet Member for Traffic and Transportation.
- 4.5 To clearly indicate which vehicles are permitted to enter the five bus lanes during the trial, all current bus lane signage will need to be updated to show "authorised vehicles", which is in accordance with the Traffic Signs Regulations and General Directions 2016. An audit has been conducted to establish the exact number and location of bus lane signs that will require changing.
- 4.6 The trial will be undertaken under an Experimental Traffic Regulation Order (ETRO), which will provide the opportunity for residents and stakeholders to be consulted throughout the duration of the trial. This consultation information will feed into the review of the trial.

5. Monitoring

- 5.1 As this project has developed, further monitoring and evaluation methods have been explored to help ensure that the impact of the trial is being monitored through quantitative data as opposed to feedback, reducing subjectivity. A series of suppliers have been consulted, along with representatives from the PHV and bus service providers regarding potential monitoring methods. This review has concluded that the following monitoring methods should be adopted for the trial:
- Accident data relating to cyclists is to be reviewed, where possible, on a monthly basis throughout the trial. It has been agreed with Hampshire Constabulary that this will be provided monthly throughout the trial.
 - Bus service providers and PHV service providers to present pre-trial and trial journey time data for analysis. Journey time monitoring on the appropriate routes will also be monitored to assess the impact, if any, on private vehicles.
 - Junction performance data is being sourced to enable the impact on junctions affected by the trial to be monitored.
 - Parking and enforcement team to provide pre-trial and trial data relating to contraventions in enforced bus lanes for analysis.

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- Air quality monitors are being procured for use prior to and during the trial to assess the impact, if any, on air quality along these routes.

5.2 To ensure robust information, it is proposed that data is collected for a minimum of one month before the trial and continuously during the trial. This will provide a baseline of evidence for comparison and will be reported back to the Cabinet Member for Traffic & Transportation along with the results of the trial.

6. Stakeholder Engagement

6.1 Initial consultation has taken place with the Private Hire Vehicle (PHV) trade representative, and Aquacars on the trial proposals. Aquacars have agreed to contribute journey time data to aid in the review of the impacts of the trial.

6.2 Consultation has taken place with Stagecoach and First Bus on the revised trial proposals. Both operators highlighted the importance of monitoring the impacts of the trial in a fair and non-subjective way. Both bus service providers have agreed to provide bus journey time data to aid in the review of the impacts of the trial.

6.3 Following approval of the recommendations in the report taken to the Traffic and Transportation cabinet meeting on the 5th July, additional engagement and consultation is now being planned to take place with all stakeholders on the details of the trial.

7. Next Steps and timeframes

7.1 Following the trial, a report will be brought back to the Cabinet Member for Traffic & Transportation with the analysis and findings.

7.2 Time is required ahead of the trial to manufacture and install replacement signs at the five proposed bus lane locations and develop the ETRO.

7.3 The procurement and installation of the monitoring systems and equipment will take place in July and August. During September, a one-month period of baseline data collection will be undertaken. It is anticipated that the trial of PHVs using the five bus lanes will commence in early October 2022. This timeframe will be refined in liaison with the working group and Cabinet Member for Traffic & Transportation.

7.4 Continued liaison with the Licensing Committee will take place prior to the commencement of the trial during the baseline data collection phase.

7.5 As and when meaningful results from the data collection during the trial are captured, these will be reported back to the working group and the Cabinet Member for Traffic & Transportation. Based on these results, consideration will be given to

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extending the trial to additional bus lane locations in a phased approach, subject to safety audits being completed and acceptable.

- 7.6 The monitoring and evaluation methodology of any further phases will be developed with the working group. Any extension to the trial will be recommended in a report to the Cabinet Member for Traffic & Transportation for their approval.

.....
Signed by (Director)

Appendices:

Appendix A - Bus lanes in Portsmouth

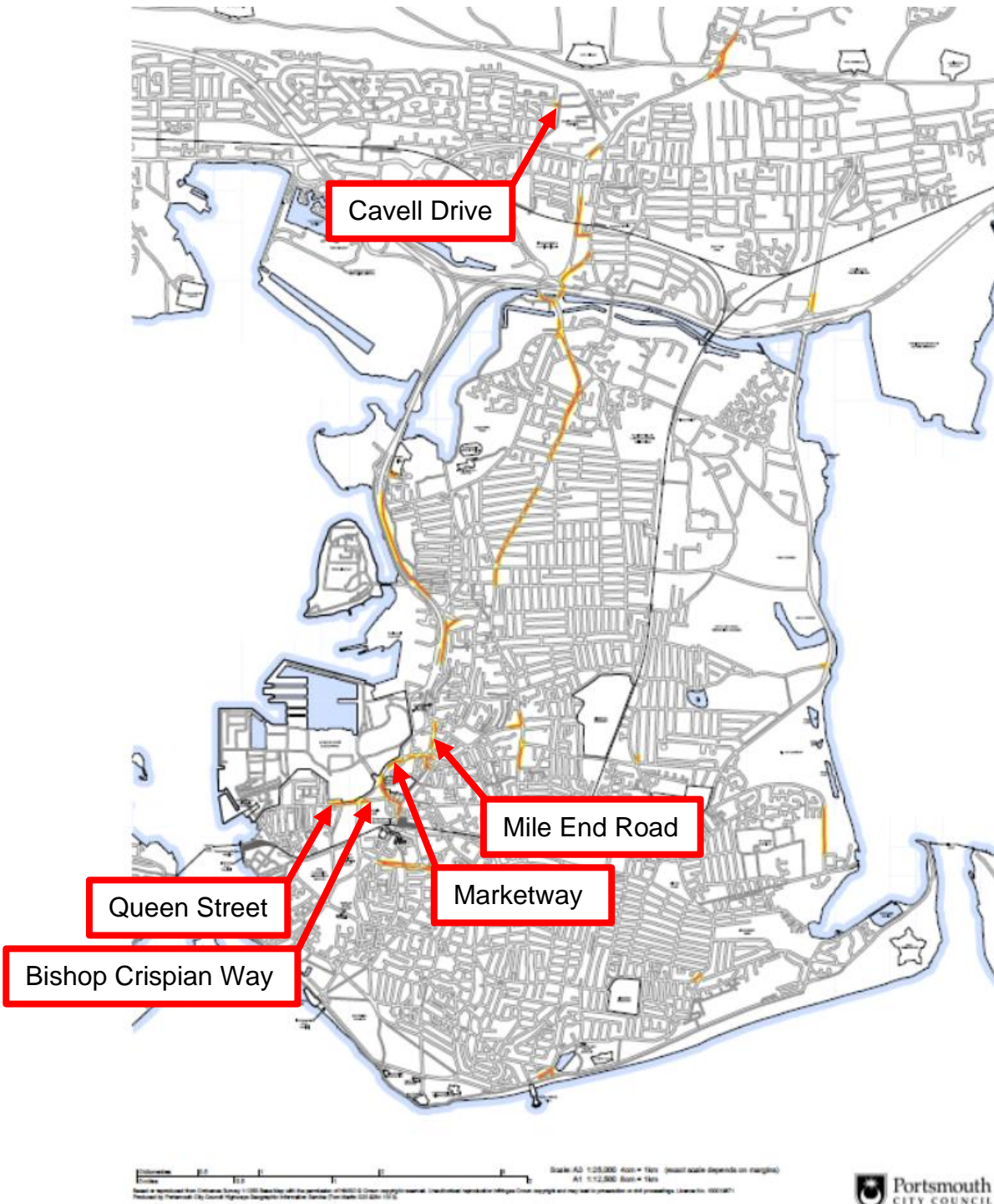
Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

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Appendix A - bus lanes in Portsmouth



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