Portsmouth
CITY COUNCIL

Title of meeting:	LICENSING COMMITTEE
Date of meeting:	22 MARCH 2019
Subject:	DfT CONSULTATION - DRAFT STATUTORY GUIDANCE TO LICENSING AUTHORITIES - TAXIS AND PRIVATE HIRE LICENSING
Report by:	DIRECTOR OF CULTURE, LEISURE AND REGULATORY SERVICES
Wards affected:	ALL
Key decision:	No
Full Council decision:	No

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1. Purpose of report

The purpose of this report is to notify the Licensing Committee of the current consultation by the Department for Transport (DfT) in respect of draft statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults.

2. Recommendations

1) **That the Committee note the consultation and draft statutory guidance;**
2) **That the Committee note the comparison between the draft guidance and its own statement of policy for hackney carriage and private hire licensing;**
3) **That the Committee note the proposed responses to the consultation and delegate authority to the Head of Culture, Leisure and Regulatory Services to respond to the consultation on behalf of the Licensing Authority.**

3. Background

3.1 The DfT first issued best practice guidance to licensing authorities in respect of private hire and hackney carriage licensing in 2006. This guidance was subsequently revised and updated in 2010. Since that date no further guidance has been issued.

3.2 The Committee will be aware from the report regarding the Government response to the Task and Finish Group (TFG), which is also on the agenda for this meeting, that one of the recommendations arising from that report was that

the Government should urgently update its Best Practice Guidance. The Government response welcomes the recommendation, recognising the leadership role that the Government must play, but also referencing the shared collective responsibility that licensing authorities have to work together to increase consistency in addressing wider concerns.

3.3 Legislative measures are available to the DfT under the Policing and Crime Act 2017 to issue Statutory Guidance on exercising taxi and PHV licensing functions in order to protect children and vulnerable individuals over the age of 18 from harm when using the services of taxis/private hire.

3.4 The consultation document is attached at **Appendix A** and the draft Statutory Guidance is attached as **Appendix B**.

3.5 The consultation is running for 10 weeks, from 12 February 2019 until 23:45 on 22 April 2019.

3.6 It is important to note that paragraph 9 of the consultation document highlights that:

" …. 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 this guidance might be drawn upon in any legal challenge to an authority's practice; any failure to adhere to the guidance without sufficient justification could be detrimental to the authority's defence. The Guidance 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".

3.7 The DfT have accepted that there is evidence to support the view that taxis and PHVs can be a high risk environment and reference risks to passengers, particularly crimes of a sexual nature.

3.8 The consultation document highlights that there is consensus that common core minimum standards are required to better regulate the taxi/private hire industry and the draft guidance reflects detailed discussion and consideration leading to its formation. The DfT have given a clear indication that ***"the Department therefore expects these recommendations to be implemented unless there is compelling local reason not to".***

3.9 As the Committee are aware, both the Licensing Authority and Council adopted its statement of licensing policy in 2016 and a comparison document has been prepared by your reporting officer in order to evaluate the components of the draft statutory guidance against PCC's current policy in terms of compliance with the recommendations. This is attached as **Appendix C**.

3.10 In addition, the comparison document also provides proposed responses to the consultation for consideration by the Committee.

4. Reasons for recommendations

To provide up-to-date information to the Licensing Committee on the draft statutory guidance prepared by the DfT and to enable the licensing authority to submit comments if they consider it appropriate to do so.

5. Equality impact assessment (EIA)

No EIA required at present as the purpose of this report is to highlight a consultation document prepared by the DfT and it will not affect, at this time, any current policies of the licensing authority in respect of hackney carriage/private hire licensing.

6. Legal Implications

The legal implications are embodied within the report.

7. Finance Comments

No financial implications arising from the publication of the consultation document.

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Signed by:

Appendices:

Appendix A **DfT Consultation Document;**
Appendix B **Dft Draft Statutory Guidance; and**
Appendix C **Comparison Document to PCC Policy including proposed responses to consultation.**

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

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

rejected by …… on ……

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Signed by: