

Review of Hackney Carriage and Private Hire Statement of Licensing Policy - December 2021

Proposals and Consultation Document

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Contents

	Page
Section 1: Introduction to the Proposals/Consultation	2
Section 2: DfT Statutory Taxi and Private Hire Vehicle Standards	3
Section 3: Administering the Licensing Regime	4
Licensing Polices	4
Duration of licences	5
Whistleblowing	5
Consultation at the local level	6
Changing licensing policy and requirements	6
Section 4: Gathering and Sharing Information	7
The Disclosure and Barring Service	7
Common Law Police Disclosure	7-8
Licensee self-reporting	8
Referrals to the Disclosure and Barring Service and the Police	8-9
Working with the Police	9
Sharing licensing information with other licensing authorities	9-10
Multi-agency Safeguarding Hub (MASH)	10
Complaints against licensees	10-11
Overseas convictions	11
Section 5: Decision Making	12
Administration of the licensing framework	12
Training decision makers	12
The regulatory structure	13
Fit and proper test	13-14
Criminal convictions and rehabilitation	14-16
Section 6: Driver Licensing	16
Criminality checks for drivers	16-17
Safeguarding awareness	17
"County lines" exploitation	17
Language proficiency	18
Section 7: Vehicle Licensing	18
Criminality checks for vehicle proprietors	18
In-vehicle visual and audio recording - CCTV	18
Stretched Limousines	19

Section 8:	Private Hire Vehicle Operator Licensing	20
	Criminality checks for private hire vehicle operators	20
	Booking and dispatch staff	20-21
	Record Keeping	21-22
	Use of passenger carrying vehicles (PCV) licensed drivers	22
Section 9:	Enforcing the Licensing Regime	23
	Joint authorisation of enforcement officers	23
	Setting expectations and monitoring	23-24
	Suspension and revocation of driver licences	24
FURTHER RECOMMENDATIONS:		
Section 10:	Age Limits for Wheelchair Accessible Vehicles	24-25
Section 11:	Mandatory Livery on Licensed Vehicles	26-30
APPENDIX A	Scheme of Delegation	31-34
APPENDIX B	Guidelines on the relevance of convictions and behaviour	35-36

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 January 2022 and run until 31 March 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.

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) (i) 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;

(ii) That the Licensing Committee delegate authority to the Head of Service to temporarily renew vehicle licences for WAVs over the age of 8 years old for a period of 6 months pending the outcome of the consultation on the proposed amendment in (i) above.

Section 11: Mandatory Livery on Licensed Vehicles

Current PCC Policy:

On [20 February 2020](#) the Licensing Committee amended its statement of licensing policy in relation to the display of livery on licensed vehicles in relation to operator and Council signage on vehicles. The amendment allowed either permanent **or** magnetic signage on licensed vehicles and, where magnetic signage is used on Council livery, the registration number of the vehicle shall be included.

The Licensing Committee also determined the following:

- to consider the implications and implementation of the amended policy at the next meeting of the Licensing Committee, which should be held before purdah.
- determined that the amended policy will run for a 12-month trial.
- determined that the amended policy and trial period will not come into effect until the practical issues of magnetic signage have been agreed; until then the current policy will apply

On [25th September 2020](#) the Licensing Committee further determined:

- to amend the private hire driver, private hire vehicle and hackney carriage vehicle conditions to include the following condition:
- The driver/ proprietor shall ensure that the council prescribed vehicle identification livery is affixed to the licensed vehicle at all times the vehicle is available for hire or presented to the Council or its agents for any purpose;
- amendments to "The Points System" to include a new vehicle breach for failure to display prescribed HCV/PHV vehicle identification livery;
- gave approval to the Licensing Manager to undertake the statutory consultation process;
- approved the commencement of the use of both company and Council magnetic signage with effect from 1 November 2020;
- That the use of magnetic signage on licensed vehicles be reviewed by the Licensing Committee after 12 months from the commencement of the use of both company and Council magnetic signage.

11.0 Feedback and proposals for amendments to the existing policy

As required by the Licensing Committee, the licensing service has undertaken a review of the use of magnetic signage on licensed vehicles and it is disappointing to report that this review has shown an unacceptable level of non-compliance of the display of PCC livery.

This ranges from no signage present on the vehicle at all, magnetic signage not displayed on rear doors due to non-metal surfaces and even vehicle licence plates being removed.

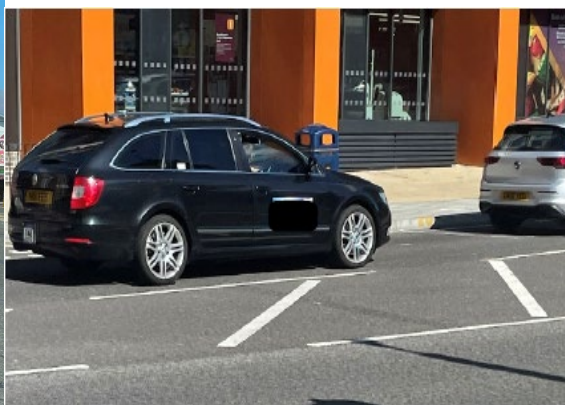
11.1 Monitoring and compliance findings

In accordance with Committee instructions, evidence has been collated to demonstrate the lack of compliance by vehicle proprietors in relation to the display of PCC livery and this is summarised below:

Summary of Compliance and Enforcement Checks - PCC Livery		
Date:	Comments:	Officer:
04.06.21	PHV Grey Skoda Superb parked up - No livery, no PCC stickers, no plate, no windscreen stickers.	RL
10.06.21	Email received from trade representative - PHV with no plate or livery (exemption) but doing town work?	RL
10.06.21	HCV Photo sent through regarding HCV no livery.	KW
11.06.21	White PHV displaying no plate or livery.	RL
11.06.21	PHV with no r/n/s PCC livery evident.	LM
11.06.21	HCV with no n/s/r livery.	LM
15.06.21	HCV working without door livery. Driver advised that he removed livery as the wind kept blowing the new magnets off.	JE
16.06.21	HCV working without livery	RL
18.06.21	PHV working without door livery.	JE
09.07.21	PHV - no plate - magnetic and velcro failed and in boot HCV seen in Portland Road - no livery - in boot. HCV seen at GQ with no livery said "been to airport" PHV seen in Pembroke Road - no livery displayed. HCV seen at Pier Road parked up with no livery - said not working	RL/LM
19.07.21	PHV seen in Commercial Road with no livery	KW
22.07.21	PHV seen at GQ residential entrance with no livery. Driver challenged and said "one fell off and the other is in the boot".	RL/LM
06.08.21	PHV seen no n/s livery displayed	RL
13.08.21	PHV seen in Albert Road with no livery and PHV in Winston Churchill Avenue	RL/LM
17.08.21	PHV reported for no livery	RL
20.08.21	PHV seen with no livery	RL
01.09.21	PHV reported by trade representative for displaying no livery	LM
01.09.21	PHV seen failing to display plate	JE
03.09.21	PHV BMW 6 series - no livery displayed.	RL
03.09.21	Report received from trade representative that PHV working without displaying prescribed livery.	JE
09.09.21	PHV seen in Isambard Brunel Road with no livery.	RL
24.09.21	PHV seen with no r/n/s livery.	RL
07.10.21	PHV seen in Brighton with no livery - reported to PCC	LM
16.10.21	PHV seen with no rear offside livery.	RL
21.10.21	HCV seen at Osborne Road Rank without livery.	LM

23.10.21	PHV seen in White Swan Road - no plate or nearside livery. Further investigation revealed driver had warned on two previous occasions about failing to display livery or plate.	RL
03.11.21	PHV reported as displaying no livery	KW
03.11.21	HCV failing to display both plate and livery	JE
09.11.21	PHV 2nd breach of failing to display livery - vehicle has aluminium doors so magnets won't stick. Driver reverted to stickers.	KW
16.11.21	HCV failure to display vehicle plate. Removed just 3 days after plate test to licence the vehicle.	JE

Photographic examples of non-compliance:



It is clear from the above information, that a significant amount of officer time has and continues to be expended dealing with non-compliance by drivers/proprietors to display livery in accordance with the current policy requirements. This is not an effective use of the skills of experienced regulators within the licensing service and diverts resources away from investigating complaints by members of the public and dealing with public safety concerns.

There are also concerns that drivers/proprietors are, despite being given points or a formal warning, repeatedly removing livery from the vehicle and this has now extended to vehicle licence plates.

Historically, your reporting staff can also advise of disappointing compliance to the then "trial magnetic livery" for Portsmouth taxis following the "Options For Change" review in 2000/2001 which resulted in licensed taxis being permitted to use bus lanes in Portsmouth. This was subject to the display of an approved vehicle identification by way of magnetic bonnet and door livery which proved to be as problematic then as it is now. Simply put, magnetic signage allows for repeated misuse and generates a disproportionate enforcement issue.

The use of an approved vehicle livery to promote and to identify a locally licensed vehicle (whether a taxi or private hire car) goes to the heart of promoting public safety and reassurance - particularly to those vulnerable passengers awaiting a pick-up at night from the busy night time economy areas. This is particularly more relevant in recent years due to the increasing emergence of "cross-border" working and more vehicles working in Portsmouth licensed in other local authority areas. It has been noted that a significant of those vehicles are not easily identifiable as a licensed vehicle and with which local authority (save for display of the vehicle licence plate but the size of this identification also varies between local authority areas).

It is both lawful and proportionate to require licensed vehicles to bear such distinguishing marks/signs as may be locally prescribed and the council has adopted such policies (with permitted exceptions for prestige/airport vehicles) for over 40 years.

It is strongly recommended that any proposals for the continued use of a corporate "magnetic" or other non-permanent style external livery be phased out. Equally, it is also recommended that all vehicles affiliated to an operator network MUST have permanently affixed and approved window and/or bodywork livery to clearly state the name of the licensed operator and any other information in line with any approved operator/vehicle licence conditions. Again, there will be exceptions for prestige vehicles and airport transfer specialists.

The display of signage to identify the private hire operator under which the vehicle is assigned bookings will offer further protection to the safety of the travelling public and to enable the public to make any complaint/concern to the relevant operator or the appropriate licensing authority to be addressed in a timely manner.

It is accordingly a matter of public safety that vehicles are easily identifiable as licensed by Portsmouth City Council and that the operator of any private hire vehicle is easily identifiable.

Whilst it is acknowledged that requiring permanent display of the operator may prevent private hire drivers from easily switching between operators, there is a public safety benefit to this effect also as operators are better able to manage their bookings and drivers are unable to switch operator to prioritise more profitable journeys. An ability to switch operator with no notice could have a negative impact on waiting times for pre-booked journeys (even if booked some time in advance). This has the most serious implications for the most vulnerable passengers, particularly, for example, lone females or the elderly.

The Institute of Licensing recently published a news article regarding the national shortage of taxis and private hire vehicles and that this is making women feeling afraid for their safety, left waiting in the dark for hours and, in some instances being harassed and intimidated. The article can be made available to members if requested.

To require the mandatory display of operator signage and for a driver to be required to work for one single operator at any one time will prevent situations where drivers may be suspended or revoked but continue to work with another operator who may be unaware of any sanctions that have been applied by the Licensing Authority.

Finally, the Committee will also be aware of the current proposal to implement a trial scheme for private hire vehicles to access bus lanes in Portsmouth. In order to be able to clearly distinguish licensed vehicles from privately owned vehicles, a key consideration will be the use of council livery on vehicles using bus lanes, which is the case with licensed hackney carriage vehicles.

Evidence has shown the current policy is not working which is adversely impacting public safety. In conclusion, for all the above reasons, it is strongly recommended that livery is permanently affixed to the vehicle and that it displays the vehicle operator details to promote public safety through enabling more effective complaints twinned with more efficient enforcement.

Recommendations:

(38) That the Licensing Committee amends its current policy in respect of the display of livery on licensed vehicles as follows:

- (a) That the current condition relating to PCC livery be amended to require permanently affixed signage on licensed vehicles and that no magnetic signage will be permitted;**
- (b) That all vehicles affiliated to an operator network MUST have permanently affixed and approved window and/or bodywork livery to clearly state the name of the licensed operator and any other information in line with any approved operator/vehicle licence conditions (but subject to exceptions for prestige vehicles and airport transfer specialists);**
- (c) Licensed drivers can only receive bookings from the operator notified to the Council for whom he/she is currently working.**

APPENDIX A

Scheme of Delegation

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

Type of Conviction ⁴¹	Guideline	Comments
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	<p>Normally a minimum 5 (and up to 10) year ban from obtaining or holding a licence.</p> <p>For convictions of GBH (or with intent), wounding, manslaughter, murder or any terrorism linked offences the committee are unlikely to support an application</p>	A particularly serious view will be taken in relation to offences against Police or other public servants or against children
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>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 are unlikely to support an application</p>	<p>Drivers may, by nature of their duties, convey vulnerable single females late at night.</p> <p>Drivers convey vulnerable adults and children on school and other special needs contracts on a daily basis – sometimes supervised and sometimes alone.</p>
Any dishonesty offence(s) to include theft, shop lifting, handling, fraud, burglary, making false statements, perjury etc	Normally a minimum 5 (and up to 10) year ban from obtaining or holding a licence.	Drivers are in an absolute position of trust with access to lost property left in vehicles, knowledge of empty properties when persons are away on holiday and dealing with customers/tourists that might not be familiar with the locally prescribed fares
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	A person who offends against the licensing code shows a propensity towards non-compliance with the law
Any substance abuse offence(s) and to include evidence of illicit drug use either by way of medical examination or drug test failure.	Normally a 3 year ban from obtaining or holding a licence and any future application to include appropriate and supporting medical reports if necessary	To include, drink, drugs or use of legal highs

Type of Conviction ⁴¹	Guideline	Comments
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>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 or holding a licence.</p> <p>For offences of causing death by reckless or dangerous driving, repeated drink drive convictions the committee are unlikely to support an application</p>	<p>A driver is considered to be a “professional” driver and offences contrary to the road traffic acts and regulations will be treated seriously</p> <p>The committee have previously received evidence of road traffic incidents involving licensed drivers in Portsmouth – particularly towards cyclists and other road users and a serious view will be taken accordingly.</p>
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	<p>Normally a 5 year ban from obtaining or holding a licence</p>	<p>The committee has previously considered and adjudicated on complaints about drivers “chatting up” or having consensual sex with passengers after “stopping work”.</p> <p>In such cases, and despite no evidenced criminality or Police investigation leading to charges, the committee’s view is that such behaviour is not becoming of a professional driver and, upon complaint or referral from another agency, is likely to result in the revocation of a driver licence.</p> <p>This includes drivers asking for personal details from passenger(s), inappropriate sexual banter (to include the sending and receiving of texts or other social media) and/or comments made of an offensive or discriminatory nature whether verbally, by text or by way of social media to which there is public access.</p> <p>For drivers receiving multiple complaints from the public, other road users or the trade (and in any one licensing period) the committee will take a serious view accordingly.</p>



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