

Press & Public Access:

YouTube Live Stream

A direct link to the live stream of the meeting's proceedings on the Council's YouTube Channel is below.

<https://youtu.be/NurJadSFxsI>

Remote Meeting Procedure Rules:

A summary of the Remote Meeting Procedures Rule to be adopted for the meeting is attached for reference.

4 - 5

1. Apologies for Absence

To receive apologies for absence from Members to determine the quorum of the meeting in accordance with Rule 7 of Part 4 of the Constitution.

2. Appointment of Substitutes

To appoint substitute Members in accordance with Rule 26 of Part 4 of the Constitution and the Substitution Procedure Rules.

3. Declarations of Interest

Members are reminded that any declaration of interest should be made having regard to the Members' Code of Conduct. In particular, Members must make clear the nature of the interest and whether it is 'pecuniary' or 'non-pecuniary'.

4. Minutes of the Previous Meeting

6 - 9

To read, confirm and sign the minutes of the previous meeting in accordance with Rule 19 of Part 4 of the Constitution.

5. Action List Arising from the Previous Meeting

10 - 12

To read, confirm and note the Action List arising from the previous meeting.

6. Petitions and Deputations

To receive any Petitions and, or, Deputations in accordance with Rule(s) 11 and 12 of Part 4 of the Constitution and the Petitions Procedure Rules respectively.

7. Statutory Guidance on Taxi & Private Hire Vehicle Standards

13 - 17

Report of the Head of Law & Democracy / Monitoring Officer

For more information, please contact:

Democratic Services

Oadby and Wigston Borough Council
Council Offices
Station Road, Wigston
Leicestershire
LE18 2DR

t: (0116) 257 2775

e: democratic.services@oadby-wigston.gov.uk

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Our audio platform
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Agenda Annex

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Summary of Remote Meeting Procedure Rules

(Section 1A of Part 4 of the Constitution)

➤ **Disclosable Pecuniary Interests (Rule 7)**

Any Member who declares a disclosable, pecuniary interest in any item of business on the agenda will be required to leave the remote meeting for the duration of the item.

Their departure will be confirmed by Democratic Services, who will then invite the relevant Member to re-join the meeting at the appropriate time.

➤ **Hosting Technology Failure (Rule 8)**

Should the hosting technology fail during the meeting, the Chair will call an adjournment of up to fifteen minutes to determine whether the connection can be re-established.

If the connection cannot be re-established after fifteen minutes, the meeting shall stand adjourned to a later date to be confirmed.

➤ **Connection Failure for Individual Member (Rules 3 and 8)**

In the event of connection failure for an individual Member, the meeting will proceed, providing it remains quorate (i.e. the minimum number of Members remain connected).

Should the meeting no longer be quorate, the meeting shall be adjourned and any remaining items of business will stand deferred to a later date to be confirmed.

➤ **Indicating to Speak (Rule 9)**

Members must indicate their wish to speak by using the 'Raise Hand' function in Zoom.

The Chair and Democratic Services will work together to invite each Member to speak in the order that their hand was raised.

➤ **Voting on Decision-Making Items (Rule 10)**

Before proceeding to the vote on any item of business on the agenda which requires a decision, the Chair will ensure that all Members and Officers have no further comments to make by confirming with Democratic Services that no hands remain raised.

The Chair will clarify what motion and/or amendment is being voted upon before the vote.

Democratic Services will call each Member's name, in alphabetical order by surname, and each Member will indicate whether they are voting 'for', 'against' or 'abstaining' on the item.

Democratic Services will record each response and, once all Members have voted, confirm the outcome of the vote.

➤ **Voting on Housing-Keeping / Information-Only Items (Rule 10)**

In respect of voting on all other housing-keeping or information-only items of business on the agenda, the Chair will ask Members to raise their hand using the function in Zoom.

If all hands are raised, those items will be agreed by general affirmation.

Agenda Item 4

MINUTES OF THE MEETING OF THE LICENSING AND REGULATORY COMMITTEE HELD AT THE COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 5 MARCH 2020 COMMENCING AT 6.30 PM

PRESENT

Mrs L M Broadley Chair
M L Darr Vice-Chair



COUNCILLORS

G A Boulter
F S Broadley
D M Carter
M H Charlesworth
F S Ghattoraya
J Kaufman
Mrs L Kaufman
C D Kozlowski
Mrs H E Loydall

OFFICERS IN ATTENDANCE

S J Ball Trainee Solicitor
Ms P Fisher Interim Head of Customer Service & Transformation
S Tucker Democratic & Electoral Services Manager / Deputy Monitoring Officer

20. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillors Mrs R H Adams, Mrs L Eaton JP, R F Eaton and D A Gamble.

21. APPOINTMENT OF SUBSTITUTES

None.

22. DECLARATIONS OF INTEREST

Councillors G A Boulter and M H Charlesworth each declared a non-pecuniary interest with regard to agenda item 9 - Environmental Health Update (Q2 & Q3 2019/20) - insofar as Councillor Boulter owns a property within South Wigston Ward comprising the area of the recently-approved Selective Licensing Scheme and Councillor Charlesworth carries on a mobile food business registered with the Council.

23. MINUTES OF THE PREVIOUS MEETING

By affirmation of the meeting, it was

UNANIMOUSLY RESOLVED THAT:

The minutes of the previous meeting held on 5 September 2019 be taken as read, confirmed and signed.

24. ACTION LIST ARISING FROM THE PREVIOUS MEETING

The Chair provided a verbal update to the Committee in relation to action point number 3 (as set out at page 7 of the public agenda reports pack) regarding the up-to-date position on staffing levels in the Environmental Health Section and provided clarification on the subject of previous hygiene ratings at food premises as was similarly provided at meeting of the Services Delivery Committee on 3 March 2020.

By affirmation of the meeting, it was

UNANIMOUSLY RESOLVED THAT:

The Action List arising from the previous meeting held on 5 September be noted.

25. PETITIONS AND DEPUTATIONS

None.

26. REVIEW OF HACKNEY CARRIAGE / PRIVATE HIRE LICENSING POLICY (MARCH 2020)

The Committee gave consideration to the report and appendix (as set out on pages 8 - 72 of the public agenda reports pack) which asked it consider and make comment on the proposed revised Hackney Carriage (HC) and Private Hire (PH) Licensing Policy ("the Policy") and to approve the same for consultation.

Having considered the Policy, Members made the following comments:

- All references throughout the Policy to the former job post 'Head of Corporate Resources' be substituted with 'Head of Law & Democracy' accordingly;
- The wording regarding the distinction between combined HC/PH vehicle licence holders being permitted to drive either a licenced HC or a PH plated-vehicle and not both (i.e. no dual-platting) be made more explicit (at page 24);
- The wording '... as well as being a licenced driver' be expanded so to include '... as well as being a [combined Hackney Carriage / Private Hire] licenced driver [with the Council' or words to similar effect (at page 21); and
- The general public, including the Council's Health and Wellbeing Board and Community Engagement and Disability Forum(s), be directly consulted on the matter of fully wheelchair-accessible HC/PH vehicles to establish if there is any unmet need with the Borough for such vehicles by disabled passengers.

In relation to the latter comment regarding wheelchair-accessible HC/PH vehicles, the Committee specifically requested that the proposed wording to be used as part of the consultation be prior approved by Councillor J Kaufman and that the Committee have sight of the working as may be approved before its publication.

Councillor J Kaufman further requested that further clarification be provided outside of the meeting in respect of whether wheelchair-accessible standards as may set out in the Disability Discrimination Act 1995 applied to HC and/or PH licenced vehicles.

It was moved by Councillor J Kaufman, seconded by Councillor Mrs L Kaufman and

UNANIMOUSLY RESOLVED THAT:

The comments made by Members (as reflected in the preceding minutes of the meeting's proceedings) be formally adopted as the collective comments of the Committee for inclusion into and in relation to the Policy.

It was moved by the Chair, seconded by the Vice-Chair and

UNANIMOUSLY RESOLVED THAT:

- (i) The collective comments of the Committee be duly noted in relation to the proposed revised Hackney Carriage and Private Hire Licensing Policy; and**
- (ii) The proposed revised Hackney Carriage and Private Hire Licensing Policy be approved for consultation (as amended).**

27. LICENSING UPDATE (Q2 & Q3 2019/20)

The Committee gave consideration to the report and appendices (as set out on pages 73 - 83 of the public agenda reports pack) which asked it to note the work undertaken by the Licensing Section during the second and third quarter(s) of 2019/20.

The Committee requested that a full breakdown of the number of the following applications be provided in the quarterly-report(s) at all subsequent meetings:

- Hackney Carriage / Private Hire Driver, Vehicle and Operator Licences, including the number of new and renewal applications (as set out at paragraph 1 at page 74); and
- House to House Collection Licences between 'Charities' and 'Other Organisations' (as set out at Appendices 1 and 2 at pages 76 and 80 respectively).

The Committee also requested that an appropriate liaison with Leicestershire Police be established by the Council to ensure a more co-ordinated and joined-up approach in relation to the issuing and monitoring of Street Collection Permits by the Council and Street Pedlar's Certificates by the Police.

Councillor J Kaufman requested that further clarification be provided outside of the meeting regarding whether certain premises within the Borough offering massage and other special treatments were subject to any form of licensing regime.

By affirmation of the meeting, it was

UNANIMOUSLY RESOLVED THAT:

The content of the report and appendices be noted.

28. ENVIRONMENTAL HEALTH UPDATE (Q2 & Q3 2019/20)

The Committee gave consideration to the report and appendix (as set out on pages 84 - 89 of the public agenda reports pack) which asked it to note the work undertaken by the Environmental Health Section during the second and third quarter(s) of 2019/20.

Councillor D M Carter requested that further clarification be provided outside of the meeting regarding:

- the figures provided at paragraph 2.3 of the report (at page 85) in respect of dogs collected and kennelled and, in particular, if those figures were inclusive of any repeat offenders and/or incidents; and
- the figures provided at paragraph(s) 6 of the report (at page 88) in respect of food hygiene inspections and, in particular, the interchangeable meaning being attached to the phrase 'carried over' and 'carried forward, therefore resulting in a more favourable compliance level of 95% as opposed to 92%.

Councillor Mrs L Kaufman requested that further assurances be provided outside of the meeting in that financial considerations alone would not factor into any decision as may be taken by College Garth to euthanize a dog whilst in their custody.

In relation to the dog warden patrol report (as set out at Appendix 1 at pages 87 - 89), the Committee requested that more detailed and information pertinent to the Borough be provided alongside the quarterly-report(s) at all subsequent meetings.

By affirmation of the meeting, it was

UNANIMOUSLY RESOLVED THAT:

The content of the report and appendix be noted.

29. EXCLUSION OF THE PRESS AND PUBLIC

By affirmation of the meeting, it was

UNANIMOUSLY RESOLVED THAT:

The press and public be excluded from the remainder of the meeting in accordance with Section 100(A)(4) of the Local Government Act 1972 (Exempt Information) during consideration of the item(s) below on the grounds that it involved the likely disclosure of exempt information, as defined in the respective paragraph(s) 3 of Part 1 of Schedule 12A of the Act and, in all the circumstances, the public interest in maintaining the exempt item(s) outweighed the public interest in disclosing the information.

30. FUTURE OF THE PEST CONTROL SERVICE (MARCH 2020) (EXEMPT REPORT)

The Committee gave consideration to the exempt report (as set out on pages 90 - 94 of the private agenda reports pack) which asked it to determine the future provision of the Council's in-house Pest Control Service.

It was moved by the Chair, seconded by the Vice-Chair and

UNANIMOUSLY RESOLVED THAT:

- (i) The contents of the report be noted; and**
- (ii) The recommendation (as set out in the exempt report) be approved.**

THE MEETING CLOSED AT 7.57 PM



Chair

Thursday, 10 September 2020

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Agenda Item 5

LICENSING AND REGULATORY COMMITTEE

ACTION LIST

Arising from the Meeting held on Thursday, 05 March 2020

No.	Minute Ref. / Item of Business	*Action Details / Action Due Date	Responsible Officer(s)' Initials	Action Status
1.	26. - Review of Hackney Carriage / Private Hire Licensing Policy (March 2020)	The collective comments of the Committee be duly noted in relation to the proposed revised Hackney Carriage and Private Hire Licensing Policy. <i>Due by Mar-20</i>	DaGi TrAl	Complete (See Below)
		The comments of Members have been noted and incorporated into the draft Policy where appropriate.		
2.	26. - Review of Hackney Carriage / Private Hire Licensing Policy (March 2020)	The proposed wording to be used as part of the consultation in relation to wheelchair-accessible HC/PH vehicles be prior approved by Councillor J Kaufman and that the Committee have sight of the working as may be approved before its publication. <i>Due by Mar-20</i>	PhFi	Complete (See Below)
		See the comments below at Action No 3.		
3.	26. - Review of Hackney Carriage / Private Hire Licensing Policy (March 2020)	Further clarification be provided in respect of whether wheelchair-accessible standards as may set out in the Disability Discrimination Act 1995 applied to HC and/or PH licenced vehicles. <i>Due by Sep-20</i>	DaGi	Complete (See Below)
		The Disability Discrimination Act 1995 was repealed in England, Scotland and Wales on 5 April 2011 and replaced by the Equality Act 2010. Under s160 of the Act, the Secretary of State has the power to make regulations to be called the 'Taxi Accessibility Regulations' designed to ensure disabled persons' access to taxis and safe and reasonable comfort when travelling. That section is not yet in force therefore the Council has no legal basis for imposing or enforcing similar conditions.		
4.	27. - Licensing Update (Q2 & Q3 2019/20)	A full breakdown of the number of the following applications be provided in the quarterly-report(s) at all subsequent	TrAl	On Target to Complete (See Below)

		meetings: (i) Hackney Carriage / Private Hire Driver, Vehicle and Operator Licences, including the number of new and renewal applications; and (ii) House to House Collection Licences between 'Charities' and 'Other Organisations'.		
		Due by Nov-19		
		The figures requested will be reported at the next Committee meeting scheduled for 26 November 2020.		
5.	27. - Licensing Update (Q2 & Q3 2019/20)	An appropriate liaison with Leicestershire Police be established by the Council to ensure a more co-ordinated and joined-up approach in relation to the issuing and monitoring of Street Collection Permits by the Council and Street Pedlar's Certificates by the Police	TrAl	Complete (See Below)
		Due by Sep-20		
		The Head of Law and Democracy is of the view that a liaison meeting would serve no useful purpose as the two regimes are entirely separate. Street Collections authorised by the Council permit static collections in streets (generally with high footfall, for example, the main shopping areas). Pedlar's certificates permit the sale of goods from door to door and therefore generally pedlars will operate in residential areas. Where a Pedlar is static when selling or not going from door to door, then an offence is committed and that offence may well amount to a breach of the Council's Street Trading Policy.		
6.	27. - Licensing Update (Q2 & Q3 2019/20)	Further clarification be provided regarding whether certain premises within the Borough offering massage and other special treatments were subject to any form of licensing regime.	DaGi TrAl	Complete (See Below)
		Due by Sep-20		
		As reported on the Corporate Plan, it was intended to introduce bye laws to regulate the management of special treatment premises within the Borough. However, following the receipt of legal advice the Council is unable to process this matter until primary legislation is introduced by Government to enable the making of local bye laws in this area.		
7.	Environmental Health Update (Q2 & Q3 2019/20)	Further clarification be provided regarding: (i) the figures provided at paragraph 2.3 of the	DaGi HaMa	Complete (See Below)

		<p>report in respect of dogs collected and kennelled and, in particular, if those figures were inclusive of any repeat offenders and/or incidents; and (ii) the figures provided at paragraph(s) 6 of the report in respect of food hygiene inspections etc.</p> <p style="text-align: center;"><i>Due by Sep-20</i></p>		
		<p>During March, 28 Food safety Inspections were due to be undertaken - 8 were completed with the final 20 inspections programmed for last 2 weeks of March. It was not possible to carry out these inspections as a result of the COVID-19 pandemic. Currently, the FSA have placed a moratorium on all physical inspections until at least 17 July.</p>		
8.	Environmental Health Update (Q2 & Q3 2019/20)	<p>Further assurances be provided in that financial considerations alone would not factor into any decision as may be taken by College Garth to euthanize a dog whilst in their custody.</p> <p style="text-align: center;"><i>Due by Sep-20</i></p>	DaGi ToCa	Complete (See Below)
		<p>As advised, Members are assured that financial considerations alone would not factor into any decision as may be taken by College Garth to euthanize a dog whilst in their custody.</p>		
9.	Environmental Health Update (Q2 & Q3 2019/20)	<p>More detailed and information pertinent to the Borough be provided in the Dog Warden Patrol Report alongside the quarterly-report(s) at all subsequent meetings.</p> <p style="text-align: center;"><i>Due by Nov-20</i></p>	DaGi ToCa	On Target to Complete (See Below)
		<p>The contractor has been requested to provide more detail on the Dog Warden Report. For the sake of clarity, the reference to premises outside the Borough on the last report was a reference to an animal that had been seized within the Borough being returned to the owner who lived in a neighbouring District.</p>		

* | All actions listed are those which are informally raised by Members during the course of debate upon a given item of business which do not form part of - but may be additional, incidental or ancillary to - any motion(s) carried. These actions are for the attention of the responsible Officer(s).



Licensing and Regulatory Committee	Thursday, 10 September 2020	Matter for Information
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Report Title: **Statutory Guidance on Taxi & Private Hire Vehicle Standards**

Report Author(s): **David Gill (Head of Law & Democracy / Monitoring Officer)**

Purpose of Report:	To inform Members of the new Statutory Guidance published on 21 July 2020 in relation to Taxi and Private Hire Vehicle Standards
Report Summary:	The report highlights the main changes to the Taxi and Private Vehicle Standards which will impact on the way that this council performs its functions.
Recommendation(s):	That the content of the report and appendix be noted.
Senior Leadership, Head of Service, Manager, Officer and Other Contact(s):	<p>Stephen Hinds (Deputy Chief Executive) (0116) 257 2681 stephen.hinds@oadby-wigston.gov.uk</p> <p>David Gill (Head of Law & Democracy / Monitoring Officer) (0116) 257 2626 david.gill@oadby-wigston.gov.uk</p>
Corporate Objectives:	Building, Protecting and Empowering Communities (CO1) Providing Excellent Services (CO3)
Vision and Values:	Accountability (V1) Respect (V2) Customer Focus (V5) "A Stronger Borough Together" (Vision)
Report Implications:-	
Legal:	There are no implications directly arising from this report.
Financial:	There are no implications directly arising from this report.
Corporate Risk Management:	Reputation Damage (CR4) Regulatory Governance (CR6)
Equalities and Equalities Assessment (EA):	There are no implications arising from this report. EA not applicable.
Human Rights:	There are no implications directly arising from this report.
Health and Safety:	There are no implications directly arising from this report.
Statutory Officers' Comments:-	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.

Monitoring Officer:	As the author, the report is satisfactory.
Consultees:	None.
Background Papers:	<ul style="list-style-type: none"> • Statutory Taxi and Private Hire Vehicle Standards
Appendices:	<ol style="list-style-type: none"> 1. High Level Overview of Changes to Vehicle Standards

1. Background

- 1.1 On 21 July 2020, the Department of Transport issued Statutory Taxi & Private Hire Vehicle Standards for the first time which replaced the Department's 2010 Best Practice Guidance.
- 1.2 Under the Policing and Crime Act 2017 the Secretary of State for Transport is enabled to issue statutory guidance on the exercising of taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services.
- 1.3 The Guidance is the result of extensive consultation with the police, the trade, the Institute of Licensing and others and sets out the approach that Licensing Authorities must adopt when carrying out their functions.
- 1.4 This authority has already previously implemented a number of the recommendations on its own volition but the guidance provides the opportunity to further tighten the current licensing scheme. The report below sets out the major changes to the licensing regimes.

2. Changes

Fit and Proper Test

- 2.1 Until now there has been no statutory definition of what amounts to a 'fit and proper' person for the purposes of the legislation and each licensing authority was free to develop its own test. Invariably that test was based on the case of McCool –v- Rushcliffe Borough Council which has been adopted, and updated to form part of this guidance as follows:

'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?'

Disclosure and Barring Service (DBS)

- 2.2 This authority requires every applicant for a drivers licence to undertake an enhanced DBS check on application and every 3 years on renewal. Under the new guidance all drivers and operators will be required to subscribe to the DNS Update Service at their own expense. This will enable the authority to review the DBS record of a driver or operator at any time, but it is recommended that the records should be reviewed every six months as a minimum.
- 2.3 In addition there is a new requirement that all Booking and Dispatch staff should be subject to a basic DBS check and it will be mandatory for operators keep records of any individual that responded to the booking request and/or despatched a vehicle to the booking request.

3. Information Sharing

- 3.1 NR3 is a voluntary scheme that is run and managed by the National Anti-Fraud Network. The NR3 scheme contains records of persons who have had licence applications refused or revoked and enables a local authority to check where they suspect that a driver may have

held a licence previously and not disclosed it on their application. As the scheme is voluntary it does not hold many records and is therefore not as effective as it could be. The guidance makes it clear that '...NR3 should be used by licensing authorities to share information...' and therefore the quantity and quality of information available through the scheme should rapidly improve.

- 3.2 The guidance is also clear that where action is taken on information received from the police then the outcome should be fed back to the police.

4. Safeguarding and Child Sexual Exploitation (CSE)

- 4.1 For a number of years the Council has required all new applicants to undertake a course to equip drivers with the skills required to recognise the risk of CSE. That course does not necessarily equip a driver to identify child or adult safeguarding concerns or issues around 'County lines'. Given the stated aim of the guidance, 'to protect children and vulnerable individuals who are over 18 from harm when using these services' that issue now takes a higher priority and the Council's current CSE course will be expanded to cover all safeguarding issues in a wider context including 'County Lines' exploitation as well as specific sexual exploitation.
- 4.2 Such is the concern over the wider safeguarding issues a refusal or revocation of a licence based on safeguarding concerns will automatically become reportable to the DBS.

5. Certificate of Good Character

- 5.1 A number of drivers registered with the authority are foreign nationals or otherwise spend long periods of time abroad. Difficulty can often be experienced when trying to assess such drivers, either on initial application or renewal, due to difficulties in accessing relevant information with a reliance on the driver to provide information. Under the new guidance where a driver (or applicant) has been living or working abroad for more than 3 continuous months the Council may require a 'Certificate of Good Character' to be submitted with an application. Generally a Certificate of Good Character is the equivalent of a DBS check issued by the local police/administration in the foreign jurisdiction.

6. Enforcement

- 6.1 It has always been the case that enforcement against a licenced driver can only be undertaken by the Licensing Authority that issued the licence (unless the offence complained about is also a criminal offence capable of prosecution by the police i.e. no insurance, no DVLA driving licence).
- 6.2 As a hackney carriage may be used for private hire work anywhere within the country this often causes difficulties. Locally complaints have been made about drivers licensed within the city operating on the borders within Oadby near to the student halls of residence.
- 6.3 The Licensing Team is also aware that a lot of the drivers licensed within the Borough work for operators based in the city.
- 6.4 The Guidance proposes that 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.
- 6.5 An agreement between for example ourselves and Leicester City Council to jointly authorise officers would enable the use of enforcement powers regardless of which authority the officer is employed by and which issued the licence.
- 6.6 This mitigates the opportunities for drivers to evade regulation. Such an agreement would

enable both authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries.

7. Mandatory Language Proficiency Tests

- 7.1 A lack of language proficiency can 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.
- 7.2 A lack of language proficiency can also impact on a driver's ability to engage with his passengers leading to confusion and potential conflict particularly in the night time economy scenario where more passengers have imbibed alcohol and their inhibitions are likely to be reduced.
- 7.2 The Guidance requires that a licensing authority's test of a driver's proficiency should cover both oral and written English language skills sufficient to achieve the objectives stated at 7.1 above. It will automatically follow that where that level of proficiency is achieved there will be a beneficial impact on the outcomes outlined at 7.2 above.

8. Previous Convictions

- 8.1 For the first time the statutory guidance introduces a common approach to the consideration of the impact of previous convictions.
- 8.2 The recommendations in the main follow the guidance that was published by the Institute of Licensing in 2018 which was adopted by this authority.

9. Retrospectivity

- 9.1 The new guidance is retrospective in that it also applies to current licence holders and such licences should be reviewed. The guidance however does not suggest that licences should be automatically revoked overnight, so 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.
- 9.2 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.

Fit & Proper test



“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?”

Guidance states: “If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.”

Disclosure and Barring Service (DBS)

- ✓ Mandatory Enhanced Criminal Records checks
- ✓ Subscription to the DBS Update Service for all drivers and operators
- ✓ Refusals and revocations on safeguarding concerns to be reported to DBS by councils

Information sharing

- ✓ Police: action taken by councils on police information should be fed-back to the police
- ✓ Applicants & licensees need to disclose if they hold or have done a licence with another authority and the outcome of that licence.

“...NR3 should be used by licensing authorities to share information...”

Complaints



“All licensing authorities should have a robust system for recording complaints, including analysing trends across all - licensees as well as complaints against individual licensees.”

Guidance states: “Licensees with a high number of complaints made against them should be contacted by the licensing authority...”

“Certificate of Good Character”



Living or working abroad for more than 3 continuous months may require a Certificate of Good

Character to be submitted with an application.

Criminal convictions & checks

Mandatory criminal records checks for:

- ✓ Private Hire operators: Basic check
- ✓ Booking and dispatch staff: Basic check
- ✓ Vehicle proprietors: Enhanced check



Mandatory operator records:

- 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.

Joint authorisation of enforcement officers - Officers from other licensing authorities can be given powers to undertake inspections and enforcement action against you and your licence.

Mandatory language proficiency tests for applicants and licence holders (on review).

Be aware! Not just for new applicants...



The newly published guidance is not just for new applicants. It will also affect existing licence holders.

The guidance states:

“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.”