



<b>Licensing and Regulatory Committee</b>	<b>Thursday, 10 September 2020</b>	<b>Matter for Information</b>
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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)**

<b>Purpose of Report:</b>	To inform Members of the new Statutory Guidance published on 21 July 2020 in relation to Taxi and Private Hire Vehicle Standards
<b>Report Summary:</b>	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.
<b>Recommendation(s):</b>	<b>That the content of the report and appendix be noted.</b>
<b>Senior Leadership, Head of Service, Manager, Officer and Other Contact(s):</b>	Stephen Hinds (Deputy Chief Executive) (0116) 257 2681 <a href="mailto:stephen.hinds@oadby-wigston.gov.uk">stephen.hinds@oadby-wigston.gov.uk</a>  David Gill (Head of Law & Democracy / Monitoring Officer) (0116) 257 2626 <a href="mailto:david.gill@oadby-wigston.gov.uk">david.gill@oadby-wigston.gov.uk</a>
<b>Corporate Objectives:</b>	Building, Protecting and Empowering Communities (CO1) Providing Excellent Services (CO3)
<b>Vision and Values:</b>	Accountability (V1) Respect (V2) Customer Focus (V5) "A Stronger Borough Together" (Vision)
<b>Report Implications:-</b>	
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.
<b>Statutory Officers' Comments:-</b>	
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"> <li>• <a href="#">Statutory Taxi and Private Hire Vehicle Standards</a></li> </ul>
Appendices:	<ol style="list-style-type: none"> <li>1. High Level Overview of Changes to Vehicle Standards</li> </ol>

## 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.