

# Agenda

## General Purposes Licensing Committee

This meeting will be held on:

Date: **Thursday 17 March 2022**

Time: **6.15 pm**

Place: **The Old Library - Oxford Town Hall**

**For further information** please contact:

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## Committee Membership

Councillor Mary Clarkson (Chair)

Councillor Rae Humberstone (Vice-Chair)

Councillor Colin Cook

Councillor Tiago Corais

Councillor Barbara Coyne

Councillor Paula Dunne

Councillor Andrew Gant

Councillor Chris Jarvis

Councillor Mark Lygo

Councillor Katherine Miles

Councillor Edward Mundy

Councillor Ajaz Rehman

Councillor Imogen Thomas

Councillor Louise Upton

Councillor Elizabeth Wade

Apologies and notification of substitutes received before the publication are shown under *Apologies for absence* in the agenda. Those sent after publication will be reported at the meeting.

# Agenda

		Pages
1	<b>Apologies for absence</b>	
2	<b>Declarations of interest</b>	
3	<b>Review of the Policy on the Relevance of Warnings, Offences, Cautions and Convictions</b>  <p>The Head of Regulatory Services and Community Safety has submitted a report to seek agreement and recommendation to Council of the Policy on the Relevance of Warnings, Offences, Cautions and Convictions (Taxi Licensing).</p> <p><b>Recommendation:</b> That the General Purposes Licensing Committee considers all relevant responses to the Policy public consultation submitted to the Licensing Authority and resolves to:</p> <ol style="list-style-type: none"> <li>1. <b>Agree</b> the final Policy on the Relevance of Warnings, Offences, Cautions and Convictions.</li> <li>2. <b>Recommend</b> the final Policy on the Relevance of Warnings, Offences, Cautions and Convictions for adoption by Council.</li> </ol>	5 - 70
4	<b>Minutes of the previous meeting</b>  <p><b>Recommendation:</b> That the minutes of the meeting held on 07 February 2022 be APPROVED as a true and accurate record.</p>	71 - 74
5	<b>Dates and times of meetings</b>  <p>The Committee is scheduled to meet at 6.15pm on the following dates:</p> <ul style="list-style-type: none"> <li>• 19 May 2022</li> <li>• 26 September 2022</li> <li>• 06 February 2023</li> </ul>	

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#### **General duty**

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you.

#### **What is a disclosable pecuniary interest?**

Disclosable pecuniary interests relate to your\* employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

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Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest. If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

#### **Members' Code of Conduct and public perception**

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member "must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself" and that "you must not place yourself in situations where your honesty and integrity may be questioned". The matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

\*Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

**To:** General Purposes Licensing Committee  
**Date:** 17<sup>th</sup> March 2022  
**Report of:** Head of Regulatory Services and Community Safety  
**Title of Report:** Review of the Policy on The Relevance of Warnings, Offences, Cautions and Convictions

Summary and recommendations	
<b>Purpose of report:</b>	To agree the final Policy on The Relevance of Warnings, Offences, Cautions and Convictions (Taxi Licensing)
<b>Corporate Priority</b>	Enable an Inclusive Economy
<b>Policy Framework</b>	Policy on The Relevance of Warnings, Offences, Cautions and Convictions
<b>Recommendation(s):</b> That the General Purposes Licensing Committee resolves to:	
<ol style="list-style-type: none"> <li>1. <b>Consider</b> all relevant responses to the Policy public consultation submitted to the Licensing Authority</li> <li>2. <b>Agree</b> the final Policy on The Relevance Of Warnings, Offences, Cautions And Convictions</li> <li>3. <b>Recommend</b> the final Policy on The Relevance Of Warnings, Offences, Cautions And Convictions for adoption by Council</li> </ol>	

Appendices	
<b>Appendix One</b>	Responses to the Public Consultation
<b>Appendix Two</b>	Department for Transport (DfT) - Statutory Taxi and Private Hire Vehicle Standards
<b>Appendix Three</b>	Final Policy on The Relevance of Warnings, Offences, Cautions and Convictions
<b>Appendix Four</b>	List of the amendments to the Policy

## Introduction and background

1. The Committee is reminded that the Council adopted a Policy on The Relevance of Warnings, Offences, Cautions and Convictions. The policy contains information about legal requirements, government guidance, procedures and standards in relation to taxi licensing. It has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Acts 1847 and 1889, the Public Health Act 1875 and the Local Government Act 1972 which place on the Council the duty to carry out licensing functions in respect of Hackney Carriage and Private Hire vehicles, drivers and operators.
2. The aim of Local Authority licensing of the Taxi and Private Hire trades is to protect the public. With this in mind, Public Protection must be at the forefront when determining whether an individual is considered a 'fit and proper' person to hold a licence. The Licensing Authority is entitled and bound to treat the safety of the public as the paramount consideration.
3. The Licensing Authority carries out its Hackney Carriage and Private Hire functions with the view to promoting the following objectives:
  - The protection of public safety and health;
  - The promotion of a professional and respected Hackney Carriage and Private Hire trade;
  - Access to an efficient, modern and effective transport service;
  - The protection and improvement of the environment, local economy and quality of life.

## Consultation on the Revised Policy on the Relevance of Warnings, Offences, Cautions and Convictions

4. As set out in the Statutory Taxi and Private Hire Vehicle Standards the Licensing Authority should consult at local level on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades' customers.
5. The public consultation took place between 3<sup>rd</sup> December 2021 and 14<sup>th</sup> January 2022. The Authority received seventeen (17) responses from members of public and the trade. The relevant responses to the consultation submitted to the Licensing Authority are attached at **Appendix One**.
6. The local public consultation included the following stakeholders:
  - The taxi and private hire trade
  - Chief Constable of the Thames Valley Police
  - Oxfordshire Licensing Authorities
  - Oxfordshire County Council Transport Department
  - Night-time economy businesses
  - General public - advertised on the website and social media

## **Revised Policy on the Relevance of Warnings, Offences, Cautions and Convictions**

7. The Department for Transport (DfT) has responsibility for Hackney Carriage and Private Hire legislation in England and Wales and produced best practice guidance for local licensing authorities in March 2010. The DfT guidance states that local authorities will “decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”. The document recognises that licensing authorities may reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances. The DfT has also published the Statutory Taxi and Private Hire Vehicle Standards in July 2020 which focuses on the protection of children and vulnerable adults, as well as benefiting all passengers.

The statutory standards can be found at **Appendix Two**.

8. The Statutory Taxi and Private Hire Vehicle Standards require Licensing Authorities to have regard to the standards set out in the documents. The DfT expects the recommendations to be implemented unless there is a compelling local reason not to, given that the standards have been set directly to address the safeguarding of the public.
9. The Authority had regard to the recommendations set out in the Statutory Taxi and Private Hire Vehicle Standards and the best practice guidance. The local environment and responses to the public consultation were also considered whilst drafting the final Policy on The Relevance of Warnings, Offences, Cautions and Convictions.

The final revised Policy can be found at **Appendix Three**.

10. In order to assist members in their consideration of the final policy, the amendments and newly implemented recommendations which were included in the first draft of the Policy in December 2021 are set out in **Appendix Four**.
11. Members are advised that the Application Pack documents for drivers, vehicles and operators, which set out the procedure and criteria of licensing shall be revised and amended according to the final version of the adopted policy.

### **Other relevant matters – HMRC Tax Conditionality**

12. Members are requested to note that since the first draft of the revised Policy on the Relevance of Warnings, Offences, Cautions and Convictions was put forward to the members in December 2021, a new requirement has been placed on the Licensing Authorities that forms part of the criteria for licensing.
13. From 4<sup>th</sup> April 2022, all Hackney Carriage and Private Hire Driver licence holders (PHD and HPD), Private Hire Vehicle Operator licence holders shall be required to complete a HMRC ‘tax check’ and provide the Licensing Authority with a **tax check code** to confirm the tax check has been completed. This requirement has

been placed on the Licensing Authorities as introduced in Schedule 33 of the Finance Act 2021.

14. The Authority is already making necessary arrangements to implement these criteria for licensing internally as well as continues to communicate the new requirement and guidance to the licensed trade. The Application Packs will be updated accordingly with a guidance and new form for the applicants.

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## APPENDIX ONE

In what capacity are you responding? - Capacity - Member of the Public	Do you propose any new additions to this policy? - additions?	Do you propose any amendments to this policy? - Please provide details below.
1.	Left Blank	Left Blank
2. Licence Holder	No	No
3. Licence Holder	No	No
4. Licence Holder	No	No
5. Left Blank	Left Blank	Left Blank
6. Licence Holder	Left Blank	Left Blank
7. Licence Holder	No	No
8. Licence Holder	When new applicants apply for a license and they have cautions/ convictions on their DBS they should be given a probation period rather than being completely refused. Obviously not if the convictions are for serious crimes but I have known individuals to have lesser crimes on their DBS and they have been refused a license immediately and have to appeal. This just doesn't seem fair. The individual should be interviewed by officers and at least be offered a trial period of 6 months or so.	Licensed vehicles (hackney & private hire) should be allowed to use all bus lanes (including new estate in Marston/ Barton). There are serious issues with LTNs as it is and customers are paying more and this is purely to do with LTN's.
9. Licence Holder	N/A	No
10. Licence Holder	Left Blank	Left Blank
11. Licence Holder	No	No
12. Member of the Public	Yes, please provide better enforcement as am sick of vehicles mounting pavements putting pedestrians at risk or obstructing cycle lanes. Taxis should obey normal rules of the road. There should be drop off points in car parks or outside main supermarkets. Not okay that double lines used. People (unless special need re disability) should consider need to walk to meet taxi not have taxi pick them up anywhere. In the modern age environmental and safety concerns do matter. Too often taxis park in unsafe places and idle engines. It is time for these practices to be overhauled and taxis to not put people at risk as much as they	See points made above. Taxis driver licensing should include environmental education and awareness training.

	do (both re unsafe parking that obscures vision, makes people breathe in unpleasant fumes, causes traffic hold-ups, puts cyclists at risk when blocked cycle lanes etc)	
13. Member of the Public	I would like to register here that I no longer feel safe using registered Hackney taxis from the station after I was interrogated intrusively about my sex life by a driver 2 years ago in a registered taxi. I was out for the first time without my young baby and the experience left me in tears. I was in a state of shock and did not get his details. I support any measures which will minimise this sort of behaviour from a tiny minority of drivers. It is such a shame because there have been so many good drivers but traumatic experiences like the above make women on their own feel unsafe to use taxis. Please ensure there is a policy and training on how drivers should deal with single women and how it is utterly unacceptable to start discussing sex.	
14. Licence Holder	No	No
15. Member of the Public	Taxi drivers spend a lot of time on the road, including in areas/routes forbidden to most motor traffic. As such, they should be held to higher standards than most drivers -- similar to the CPC that bus/HGV drivers need to renew every 5 years. They should also be more alert to vulnerable road users (taking the Bikeability course, where possible) and the risks posed by idling/waiting/parking in inappropriate spots.	
16. Member of the Public	Drivers of HCs and PHVs should be required to take a cycle awareness training course, and	

	<p>perhaps even to have cycle training themselves. Most drivers are, from dint of experience in Oxford if nothing else, reasonably good, but a sizeable fraction of licensed drivers behave in completely inappropriate ways around people cycling. This includes close-passing cycles (often at much less than the 1.5m the highways code requires even at low speeds), aggression against people cycling in primary position (including on roads which are manifestly too narrow for safe overtaking, such as Warneford Lane and Howard St), intrusion into cycle boxes, stopping on cycle lanes or in locations that block visibility and endanger people walking or cycling.</p> <p>This could be combined with awareness training on other issues: e.g. not idling engines, being particularly careful around schools, not parking on pavements, etc.</p>	
17. Member of the Public	<p>I'd like to suggest that in Oxford taxi drivers should be required to take and pass level 2 of the BikeAbility cycle training as compulsory training before getting a licence to drive in Oxford. With the city and county council moving towards reducing private vehicle traffic use in the city and wishing to see an increase in the number of people cycling I feel that it is important that taxi drivers are much more aware of how it feels to be cycling on the road. Most especially as it is likely there will be more areas where taxis and cycles will share the road.</p> <p>Currently taxis will often drive towards a cycle and stop in</p>	

	<p>front of them on the "wrong" side of the road, or overtake a cycle and then stop in front. They also tend to mount the pavement to park off the road which leaves a person cycling having to overtake. They often come too close to people cycling or drive too fast past.</p> <p>Taxis should not on any account park on pavements. Pavements are for pedestrians, or shared pavements are for people walking and cycling - both are vulnerable members of the traveling public and should not be endangered in this way by taxis who should be providing a public service without endangering other users.</p>	
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Department  
for Transport

# **Statutory Taxi & Private Hire Vehicle Standards**

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# 1. Introduction

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



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

## Terminology

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

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

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

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

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

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

### 3. Administering the Licensing Regime

#### Licensing policies

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

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

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

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

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

## Duration of licences

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

## Whistleblowing

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

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

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

### Consultation at the local level

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

### Changing licensing policy and requirements

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

## 4. Gathering and Sharing Information

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

### The Disclosure and Barring Service

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



## The Disclosure and Barring Service Update Service

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

### Common Law Police Disclosure

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

### Licensee self-reporting

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

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

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

### Referrals to the Disclosure and Barring Service and the Police

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

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

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

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

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

## Working with the Police

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

## Sharing licensing information with other licensing authorities

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

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

### Multi-agency Safeguarding Hub (MASH)

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

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

### Complaints against licensees

- 4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.
- 4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.
- 4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.
- 4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.
- 4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

### Overseas convictions

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

## 5. Decision Making

### Administration of the licensing framework

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

### Training decision makers

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



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

### The regulatory structure

- 5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.
- 5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:
- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
  - Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.
- 5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.
- 5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.
- 5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close



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

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

### Fit and proper test

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

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

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

### Criminal convictions and rehabilitation

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

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

## 6. Driver Licensing

### Criminality checks for drivers

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

### Safeguarding awareness

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

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

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

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

### ‘County lines’ exploitation

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

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

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

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

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

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

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

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

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

### Language proficiency

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

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

## 7. Vehicle Licensing

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

### Criminality checks for vehicle proprietors

- 7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.
- 7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.
- 7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.
- 7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

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

### **In-vehicle visual and audio recording – CCTV**

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

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

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

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

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

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

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



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

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

### Stretched Limousines

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



## 8. Private Hire Vehicle Operator Licensing

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

### Criminality checks for private hire vehicle operators

- 8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.
- 8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately
- 8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.
- 8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

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

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

### Booking and dispatch staff

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

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

## Record keeping

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

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

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

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

## Use of passenger carrying vehicles (PCV) licensed drivers

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

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

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

## 9. Enforcing the Licensing Regime

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

### Joint authorisation of enforcement officers

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

### Setting expectations and monitoring

- 9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere to and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.
- 9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

### Suspension and revocation of driver licences

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

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

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

- 9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.
- 9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.
- 9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.
- 9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.
- 9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

## Annex – Assessment of Previous Convictions

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

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

### Crimes resulting in death

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

### Exploitation

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

### Offences involving violence against the person

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

### Possession of a weapon

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

### Sexual offences

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

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

### Dishonesty

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



## Drugs

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

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

## Discrimination

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

## Motoring convictions

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

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

## Drink driving/driving under the influence of drugs

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

## Using a hand-held device whilst driving

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



## Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
<b>Unspent convictions</b>	Yes	Yes	Yes	Yes
<b>Unspent cautions</b> <sup>1</sup>	Yes	Yes	Yes	Yes
<b>Spent convictions</b> <sup>2</sup>	No	Yes	Yes	Yes
<b>Spent cautions</b> <sup>1 &amp; 2</sup>	No	Yes	Yes	Yes
<b>Additional police Information</b> <sup>3</sup>	No	No	Yes	Yes
<b>Barred list(s) Information</b> <sup>4</sup>	No	No	No	Yes

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

## Annex – CCTV Guidance

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

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

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

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

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

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

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

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

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

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

## Annex - Staying Safe: Guidance for Passengers

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

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

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

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

When using a private hire vehicle, passengers should always:

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

When using a taxi, passengers should where possible:

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

LICENSING AUTHORITY:

# POLICY ON THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS & CONVICTIONS

Consideration of the Grant, Renewal, Suspension  
or Revocation of Hackney Carriage / Private Hire  
Driver & Vehicle Licences, & Private Hire Operator  
Licences



This policy was adopted by the Oxford City Council at the meeting of the Full Council on 17<sup>th</sup> March 2022 and comes into force on 1<sup>st</sup> April 2022.  
The Policy shall be in place for period of five (5) years from that date, however it will remain under review should amendments be necessary.

# OXFORD CITY COUNCIL

## **POLICY ON THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS**

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## **POLICY ON THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS**

### **Consideration of the Grant, Renewal, Refusal, Suspension or Revocation of Hackney Carriage and Private Hire Driver's Licences, Vehicle Licences, and Private Hire Operator Licences.**

#### **1. Introduction**

- 1.1 The aim of Local Authority licensing of the Taxi and Private Hire trades is to protect the public. With this in mind, Public Protection must be at the forefront when determining whether an individual is considered a 'fit and proper' person to hold a licence. The Licensing Authority is entitled and bound to treat the safety of the public as the paramount consideration.
- 1.2 The Hackney Carriage and Private Hire trade have a specific role to play in an integrated transport system. They are able to provide demand responsive services in situations where public transport is either not available (for example in rural areas, or outside 'regular' hours of operation such as in the evenings or on Sundays), and /or for those with mobility difficulties. Hackney Carriage and Private Hire vehicles support the night-time economy by playing a vital part in the safe dispersal of people in the city.
- 1.3 The Council's aim is to ensure that the public have reasonable access to Taxi and Private Hire services, due to the part they play in a local transport provision. Therefore, it is essential that the councils' Hackney Carriage and Private Hire licensing powers are used to ensure that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required.
- 1.4 It is the Council intention to license well-run and responsible businesses and individuals. Its purpose, therefore, is to prevent licences being issued to or used by those who are not suitable persons, taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their position to cause distress, harm or suffering to any passenger or other person and that they meet the 'fit and proper' person test.

#### **2. Objectives**

- 2.1 The Licensing Authority will carry out its Hackney Carriage and Private Hire functions with the view to promote the following objectives:
  - The protection of public safety and health
  - The promotion of a professional and respected Hackney Carriage and Private Hire trade
  - Access to an efficient, modern and effective transport service
  - The protection and improvement of the environment, local economy and quality of life
- 2.2 The aim of the licensing process, in this context, is to regulate the Hackney Carriage and Private Hire trade in order to promote the above objectives. In promoting these objectives the Authority shall expect all licence holders and applicants to continuously demonstrate they can meet or exceed specifications set by the Council.
- 2.3 The purposes of the licensing regime is to ensure that, so far as possible, those licensed to drive Hackney Carriages and Private Hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, and honest; and that they are persons who would not take advantage of their position to abuse, assault or defraud customers and that they meet the 'fit and proper' person test.

#### **3. Status**

- 3.1 This policy contains information about legal requirements, government guidance, procedures and standards in relation to its taxi licensing functions. It has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Acts 1847 and 1889, the Public Health Act 1875 and the Local Government Act 1972 which place on the Council the duty to carry out licensing functions in respect of Hackney Carriage and Private Hire vehicles, drivers and operators.
- 3.2 In exercising its duties when carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above. Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons shall be given for doing so.
- 3.3 The Council expects licence holders to comply with the conditions and regulations pertaining to the licence immediately. However, certain provisions may place financial obligations on existing licence holders and accordingly the Council is prepared to permit a reasonable transitional period which will be determined and provided by officers acting under delegated powers, during which necessary changes must be made by all licence holders.
- 3.4 The policy provides guidance for applicants, proprietors, drivers and operators to assist them with application processes and operation of their business. This guidance, application forms, current fees, as well as criteria, conditions and regulations relating to Taxi and Private Hire licensing functions can be found in the following documents:



- **Hackney Carriage and Private Hire Driver Licence Application Pack**
- **Hackney Carriage and Private Hire Vehicle Licence Application Pack**
- **Private Hire Operator Licence Application Pack**

These are available on the relevant Council website or by contacting the General Licensing Team. In order to ensure that the most up to date version is used, applicants and licence holders should not store these forms on their own system but should download the latest version of a form when it is required.

The Council provides all such relevant information on its website at: [www.oxford.gov.uk/taxilicensing](http://www.oxford.gov.uk/taxilicensing)

- 3.5 This policy will remain in existence for a period of five years, during which time it shall be kept under review and revised as necessary. The Head of Regulatory Services and Community Safety in consultation with the Chair of the General Purposes Licensing Committee is authorised to make minor administrative amendments to the policy where necessary, and to amend the policy to reflect any changes in legislation, statutory guidance or similar.

## 4. Legislation and Best Practice Guidance

- 4.1 All licence holders must comply with the provisions relating to Hackney Carriage and Private Hire drivers and vehicles contained in legislation, including but not limited to the following:
- The Local Government (Miscellaneous Provisions) Act 1976
  - The Local Government Act 1972
  - Town Police Clauses Act 1847 (as amended)
  - Town Police Clauses Act 1889
  - Road Safety Act 2006
  - Equality Act 2010
  - Public Health Act 1875
- 4.2 The Department for Transport (DfT) has responsibility for Hackney Carriage and Private Hire legislation in England and Wales and produced best practice guidance for local licensing authorities in March 2010. The DfT guidance states local authorities will "decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes". The document recognises that licensing authorities may reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances. The DfT has also published the Statutory Taxi and Private Hire Vehicle Standards in July 2020 focusing on protecting children and vulnerable adults, as well as benefiting all passengers. The council has taken account of the recommendations in both documents to shape this policy.

## 5. Enforcement Procedures

- 5.1 Enforcement is part of the overall licensing control process exercised by the Council and is taken to:
- **ensure public safety**
  - **maintain standards within the trade**
  - **support the policies of the council**
  - **respond to complaints**
  - **support partnerships with neighbouring local authorities, and other agencies such as the Police and Driver and Vehicle Standards Agency (DVSA)**

All enforcement will be proportionate, transparent and in accordance with the Council's Corporate Enforcement Policy. The Council will ensure that its enforcement system meet the objectives set out in the policy whilst avoiding undue burden and costs upon licence holders.

- 5.2 This Authority will deal with enforcement matters relating to an applicant or existing licence holders by means of Licensing Officers, the Head of Regulatory Services and Community Safety, the Hackney Carriage and Private Hire General Licensing Sub-Committee and the Courts. The expectation of the Authority is that any person who seeks the grant of a licence, or who holds a licence, meets with the definition of a "fit and proper" person. Hackney Carriage and Private Hire drivers and operators maintain close contact with the public and are therefore not expected to behave or act in a manner that may:
- **cause any person to take offence at their actions**
  - **cause any person to believe their actions are inappropriate**
  - **cause any person to fear for their physical safety**
  - **cause any person to doubt their integrity**
  - **brings the integrity of the Council in to disrepute for having granted such a person a licence**
  - **fail to adhere to the conditions and regulations pertaining to the licence**
- 5.3 The Council's enforcement process addresses persistent, low level breaches through to serious, possibly criminal, behaviour. Sanctions range from advice and warnings, to the suspension and revocation of a licence and / or prosecution. Failures on the part of an applicant or existing licence holder to uphold the Licensing Objectives or to adhere to the conditions and regulations pertaining to the licence may result in any of the following actions :

- **the issue of an Advisory letter**
- **the issue of a warning (appropriate to the incident reported)**

- the issue of a higher level of warning (appropriate to the incident reported and having regard to the history of the licence holder)
- the request for an interview to be held in accordance with the Police and Criminal Evidence Act 1984
- the issue of a Formal Caution
- the referral of the matter to the Head of Regulatory Services and Community Safety
- the referral of the matter to the Hackney Carriage and Private Hire General Licensing Sub-Committee
- the referral of the matter to the Law and Governance department for consideration of prosecution

5.4 Licensing Officers are permitted to instruct an existing licence holder to undertake new or repeated courses or training (driving standards, safeguarding, disability awareness, etc.) at any time, to ensure their standards have not fallen below the council expectations for a 'fit and proper' person. The Licensing Officer will provide detailed reasons for the requirement

5.5 All case notes, evidence and enforcement outcomes are recorded on the Council's case management system. The council understands the importance of ensuring that personal data, including sensitive personal data is always treated lawfully and appropriately and that the rights of individuals are upheld. You can find the council data protection policy online <https://www.oxford.gov.uk/privacy>

#### 5.6 "Warning" System:

**Advisory Letter:** A letter advising that although the incident, allegation, an offence, caution or conviction was not serious enough to have warranted a First Level Warning, the incident has caused concern to the Council as to the suitability to hold such a licence. The Advisory Warning usually addresses a low level non-compliance, which can be issued at any level on the scale of warnings. If similar behaviour or non-compliance persists, it may lead to an escalation in the level of warning issued.

**First Level Warning:** A letter advising that although the incident, allegation, an offence, caution or conviction was not serious enough to have warranted a Second Level Warning, which deals with more serious incidents, repetitious behaviour or non-compliance, the offence committed is unacceptable and has caused concern to the Council as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the consequences could be much more severe.

**Second Level Warning:** A letter advising that although the incident, allegation, an offence, caution or conviction was not severe enough to have warranted a Final Warning, suspension or revocation of the licence, the behaviour or the offence committed is unacceptable and has caused significant concern to the Council as to the suitability to hold such a licence. A Second Level Warning deals with serious incidents, repetitious behaviour or non-compliance. If in the future, similar behaviour is illustrated, the consequences shall be much more severe.

**Final Warning:** A letter advising that although the incident, allegation, an offence, caution or conviction did not warrant the refusal, suspension or revocation of the licence, the offence committed is unacceptable and has caused major concern to the Council as to the suitability to hold such a licence. A Final Warning deals with major incidents, as well as escalation of warning level due to repeated non-compliance. If in the future, similar behaviour or any other non-compliance is illustrated, the licence holder should expect the matter to be addressed through the escalation warning system.

#### 5.7 Suspension, Revocation and Sub-Committee interventions

**Councillor Warning:** A Decision issued by the Hackney Carriage and Private Hire Licensing Sub-Committee, likely to also include additional conditions being imposed on a licence, advising that although the incident, an offence, caution or conviction, and / or accumulation of Warnings issued by the Licensing Officers did not warrant the refusal, suspension or revocation of the licence, the offence committed is unacceptable and has caused concern to the Council as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the licence holder should expect the matter to be met with the suspension or revocation of his/her licence.

**Immediate Suspension:** A Decision issued by Head of Regulatory Services and Community Safety or the Hackney Carriage and Private Hire Licensing Sub-Committee advising that in the view of the serious nature of the incident, allegation, an offence, caution or conviction the Council has decided there is reasonable cause to suspend the licence with immediate effect in the interests of public safety. Suspension is not indefinite and the Authority may consider determination of the individual 'fit and proper' status during the suspension period. An individual has the right of appeal to the Magistrates' Court within 21 days from the decision, however the suspension shall remain in force pending the outcome of any appeal.

**Immediate Revocation:** A Decision issued by Head of Regulatory Services and Community Safety or Hackney Carriage and Private Hire Licensing Sub-Committee advising that in the view of the serious nature of the incident, allegation, an offence, caution or conviction the Council has decided there is reasonable cause to revoke the licence with immediate effect in the interests of public safety. The revocation is indefinite. The individual has the right of appeal to the Magistrates' Court within 21 days from the decision.

**Hackney Carriage and Private Hire Licensing Sub-Committee:** A committee having powers to determine the suitability of a new applicant to be granted a licence or existing licence holder to maintain a licence, by assessing if the person meets the Authority's definition of a "fit and proper" person. The Licensing Sub-Committee hearings are conducted in person. Parties attending the hearing

consist of the Sub-Committee panel (three elected members), council legal adviser, clerk, Licensing Officer and the new applicant or current licence holder, who are entitled to be accompanied by a representative should they need assistance. An applicant for a new Hackney Carriage and/ or Private Hire driver licence is entitled to have their application determined by the Licensing Sub-Committee, taking into account the policy recommendations. Each application shall be considered on its own merits. The Licensing Sub-Committee could determine to grant or renew a licence, refuse to grant or renew a licence, suspend or revoke a licence.

## 6. Definitions

**Appeal:** A means by which a decision under delegated authority can be reviewed by the Magistrates Court or the Crown Court. The decision of the Council may be upheld or overturned.

**Offence:** commonly used to signify any public wrong, including crimes or indictable offences and offences punishable on summary conviction.

**Caution:** A caution is a formal warning given to an adult who has admitted to an offence and has consented to the caution.

**Conviction:** Judicially determining that someone is guilty of a crime

**Free of convictions:** This means a period since your last conviction in which you remain free of any further convictions. In the case of a custodial sentence this means the periods given will run from the date that the full sentence awarded by the court would have been completed.

**Fit and Proper Person:** A person who poses no threat to the general public, has a good knowledge of the City, is healthy, and is of a good character (including driving record) will be deemed fit and able to hold a licence. The following question shall be posed:

*"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?"*

**Hackney Carriage Vehicles:** A vehicle that can carry passengers for hire or reward, can be hailed by a prospective passenger and can park on a taxi rank within their district to await the approach of passengers; a vehicle available for Public Hire within the controlled district.

**Hackney Carriage and Private Hire Licensing Sub-Committee:** A committee having powers given to it by the General Purposes Licensing Committee of the Council, to determine the suitability of an applicant to be granted a licence or existing licence holder to maintain a licence, when the Head of Regulatory Services and Community Safety is unable to determine whether such a person meets the Authority's definition of a "fit and proper" person.

**Head of Regulatory Services and Community Safety:** Holds delegated authority to make day to day decisions regarding the suitability of any person seeking the grant or renewal of a licence, and decisions regarding the suspension or revocation of any licence holder.

**Mitigating Circumstances:** The circumstances surrounding an incident, offence, allegation, caution or conviction. These may alter the seriousness of a crime.

**Private Hire Vehicle:** A vehicle which must be pre-booked with a Private Hire Operator. This type of vehicle cannot ply for hire (stand in a taxi rank, wait without a booking in a "prominent position" giving rise to the impression that the vehicle is available for hire) or undertake a journey that has not been pre-booked by the hirer with a Private Hire Operator.

**Proprietor:** The person in possession of a Hackney Carriage or Private Hire vehicle licence.

**Operator:** A business that makes provision for the invitation or acceptance of bookings for Private Hire Vehicles.

**Refusal:** To decide not to give something

(Within this Policy any reference to refusal will also be a reference to revocation or suspension)

**Revoke:** To take something away permanently.

**Suspend:** To take something away temporarily.

## 7. Guidelines Relating to the Relevance of Convictions - Powers and Duties

7.1 The Rehabilitation of Offenders Act 1974 ("1974 Act") and associated amendments sets out the period after which a conviction/caution/warning would be regarded as 'spent' and not normally require details of that conviction to be provided on any relevant application form. In 2002 the Rehabilitation of Offenders Act 1974 was amended to exclude hackney carriage and private hire drivers from the 1974 Act. The driving of hackney carriages and private hire vehicles was listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence. The Rehabilitation of Offenders Act 1974 is summarised at Appendix 1.0.

7.2 Applicants for, or current licence holders of, taxi driver, vehicle or operator licences must therefore provide details of all convictions, warnings, reprimands, injunctions, cautions, Community Protection Notices, Criminal Behaviour Orders, community service orders, restraining orders, traffic offences, other court orders, Notices or Orders associate with child or adult safeguarding concerns, driver education courses, disqualifications and fixed penalty notices (including for traffic offences), including

any that would previously have been regarded as spent under the 1974 Act or may not currently show on any replacement DVLA driver's licence, or another other notice or legal matter pertaining to a criminal or anti-social behaviour incident. In addition, any pending court cases or hearings must be declared, and details of any licences previously held, suspended or revoked. The Authority will take the information provided into account irrespective of offence, sentence imposed or age when the offence is committed.

- 7.3 Failure to disclose any information detailed in paragraph 7.2 in writing within 48 hours of receipt of their issue, or the making of false declarations will be considered to be an act of dishonesty and may result in the application being refused or the licence revoked. Applicants must seek the advice of an officer if they cannot remember full details that they are required to declare or have any uncertainty about what details they are required to provide.
- 7.4 All licence holders are required to inform the council in writing within 48 hours if they are arrested, formally interviewed (voluntary) or charged with an offence by the police or other enforcement body. This is to allow the council to be aware of any public safety concerns and to take appropriate action. Failing to notify the council may result in additional enforcement action against the licence.
- 7.5 In order to assess an individual suitability to hold a licence, this Authority requires all applicants to provide a current Enhanced Disclosure and Barring Services (DBS) Certificate and a DVLA Disclosure. All licence holders must subscribe to the online DBS update service and maintain the subscription for the full duration of the licence. Where a driver fails to maintain their subscription with the online DBS Update service, or the DBS update check reveals new information their licence may be suspended with immediate effect on the grounds of public safety. The licence holder will have to submit a new DBS application, provide the DBS Certificate and online subscription, which may take several weeks to be processed by DBS.
- 7.6 Where the Authority has a reasonable cause for concern in regards to a licence holder, an Enhanced DBS update check may be carried out. Should the check reveal any concerns or new information, the driver shall be notified of the outcome. The Authority shall also carry out an annual background checks (DBS) to ensure no changes in circumstances occurred during the validity of the licence.
- 7.7 A licence may be suspended or revoked with immediate effect pending the outcome of any investigation or trial where a licensed driver has been arrested or charged with a serious offence. Serious offences can include but are not limited to:
  - Driving or being in charge of a vehicle whilst under the influence of alcohol or drugs
  - A drug related offence
  - An offence of a sexual nature
  - An offence involving violence
  - An offence involving dishonesty
- 7.8 A licence may also be suspended or revoked with immediate effect where information received raises grave doubts as to the fitness of a driver, regardless of whether criminal charges are brought or if the police determine to take no further action. In all cases the licence holder will be given an opportunity to make representations and these will be taken into account by the decision maker/s.

## 8. Suitability to Hold a Licence - A 'Fit and Proper' Person

- 8.1 When considering whether someone should serve the public as a taxi driver, the range of passengers that a driver may carry must be borne in mind. For example, elderly people, unaccompanied children, the disabled, those who could be intoxicated, lone women, foreign visitors and unaccompanied property. Some areas give rise to particular concern, including:
  - **Honesty and trustworthiness** – drivers are very often trusted with sensitive information whilst carrying out their duties. They have the knowledge of passenger vulnerabilities, convey customers who do not know the city and its locations, as well as manage a property lost in the vehicles. They must not abuse their position of trust.
  - **Abusive behaviour** – drivers are often subject to a disagreement, unpleasant or dishonest behaviour. The Council does not consider that such situations excuse any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation, attempt to defuse the situation and to address disputes through the proper legal channels.
  - **A good and safe driver** – Passengers paying for a transport services rely on their driver to get them to their destination safely. Licensed drivers are professional drivers and should be fully aware of all road traffic legislation and conditions attached to the licence.
- 8.2 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.

- 8.3 Licensing Authorities have a duty to safeguard the public. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be given 'the benefit of doubt'. If the committee or delegated officer is only "50/50"

as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction and can take into consideration conduct that has not resulted in a criminal conviction.

- 8.4 The relevant legislation provides that the Council may grant a licence **ONLY** if it is satisfied that the individual is a 'fit and proper' person – **the onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.**
- 8.5 The Licensing Authority is entitled to take into account all matters concerning an applicant or licensee. They are not simply concerned with that person's behaviour whilst working in the Hackney Carriage or Private Hire trade. This consideration is far wider than criminal convictions or other evidence of unacceptable behaviours, and the entire character of the individual will be considered. This can include but is not limited to, the individual's attitude and temperament.
- 8.6 Where sufficient and appropriate enforcement measures have been taken by the Licensing Officers, in relation to a licence holder who has failed to adhere to the conditions and regulations pertaining to his or her licence, their suitability to hold a licence may be placed before the Hackney Carriage and Private Hire Licensing Sub-Committee to determine. It is therefore prudent for all new applicants and existing licence holders to be familiar with the content of this Policy on the Relevance of Warnings, Offences, Cautions and Convictions, and with the criteria, conditions and regulations specific to the licence that they hold.
- 8.7 Full details of the criteria, conditions and regulations relating to the Taxi Licensing function can be found in the following documents:
- **Hackney Carriage and Private Hire Driver Licence Application Pack**
  - **Hackney Carriage and Private Hire Vehicle Licence Application Pack**
  - **Private Hire Operator Licence Application Pack**

## 9. Information Sharing

- 9.1 Applicants and licensees are required to disclose if they hold or have previously held a licence with another authority. As well as, if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. Where drivers have been licensed with other authorities, this authority shall carry out checks with those authorities for any information that may be relevant to the application being considered. In addition, the council will use the National Anti-Fraud Network's - National Register of Taxi and Private Hire Vehicle Driver Licence Refusals and Revocations (known as 'NR3'), to share information and mitigate the risk of non-disclosure of relevant information by applicants.
- 9.2 The police are an invaluable source of intelligence when assessing whether a licensing applicant or current licence holder is a 'fit and proper' person. This Authority is committed to work in partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, action taken by the licensing authority as a result of information received may be reported to the police. Safeguarding concerns resulting in a revocation or refusal on public safety grounds may be reported to the police and other relevant agencies.
- 9.3 In order to assist effective information sharing on a local level, this Authority is a partner in the Oxfordshire Joint Operating Framework (JOF) for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing. The framework provides a single set of minimum standards for agencies with responsibilities for transporting children and adults with care and support needs in Oxfordshire, including addressing vetting, training, awareness raising and most importantly information sharing between agencies.

## 10. Protecting the Public

- 10.1 It is not the Licensing Authorities role to balance a driver's right to work against the public's right to protection. The Licensing Authority is duty bound to treat the safety of the public as its principle consideration. Having considered and applied the appropriate guidelines, the council shall determine each case on its own merits.
- 10.2 The character of the driver in its entirety is the central consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a 'fit and proper' person.

## 11. Licensing history

- 11.1 The Licensing Officer may take into account a person's licensing history whilst holding a licence, from this or any other Authority. The Licensing Officer may take into account, in deciding whether a person is a 'fit and proper' person to hold (or to continue to hold) a licence, such matters as the record of complaints about them, any enforcement actions, their compliance with Licence conditions and their willingness to co-operate with the reasonable requests of Licensing Officers.

## 12. Safeguarding

- 12.1 The council acknowledge that all licensed drivers who transport children, young people and vulnerable adults play a very important role in safeguarding, and this is why mandatory training is required for all licensed drivers. **The key message is that safeguarding is everyone's responsibility.**
- 12.2 The Authority recognise the opportunities provided by Taxi and Private Hire drivers to spot the signs and alert the appropriate authorities to concerns about the safety of children and adults with care and support needs. Taxis and Private Hire vehicles regularly transport passengers who may be vulnerable, for example when the passenger is under the influence of alcohol or drugs or is travelling alone, hence the need to promote the highest safeguarding standards to protect both passengers and drivers
- 12.3 Vulnerable children and adults are those whose mental health, disability, age, illness or other reasons means that they may be unable to take care of themselves and/or unable to protect themselves against serious harm or potential exploitation. Some people may have more advanced needs than others and therefore are more likely to face abuse or be directly abused by others because they require assistance to speak, move themselves or understand others; these are some of the types of needs that make them vulnerable.
- 12.4 Drivers are expected to report all safeguarding concerns to the police if there is an immediate risk of harm to a child or vulnerable adult and / or the relevant social care providers. Drivers are also expected to inform the Private Hire Operator under whose licence they operate at the time and inform the Council's Licensing Authority.



# **GUIDELINES RELATING TO THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS**

## **1. General Principles**

- 1.1 Each case shall be considered on its own merits.
- 1.2 Any applicant having a previous or current conviction should not necessarily prevent them from obtaining a Hackney Carriage or Private Hire Licence. However, they should remain free of conviction for an appropriate period of time, according to the circumstances, before the Licensing Authority will consider whether a licence should be granted or renewed. This places passenger safety as the priority while enabling those with past offences to be considered for a licence. However, there are certain offences that are considered so serious that they will usually prevent a person obtaining or keeping a licence.
- 1.3 Cautions shall also be taken into consideration. They can give indication as to an applicant's (licensee) character and whether they are a 'fit and proper' person to hold or be granted a licence. A caution is given where there is sufficient evidence for a prosecution and guilt has been admitted.
- 1.4 Should a Court have found as a matter of fact that a person has committed an offence, the Licensing Authority will not take into consideration the applicant's assertion that they did not commit the offence. The applicant can, however, explain any mitigating circumstances that led to them committing the offence, which could be taken into account when determining whether the applicant is a 'fit and proper' person to hold a licence. Such cases may be referred to the Hackney Carriage and Private Hire General Licensing Sub-Committee for determination.
- 1.5 In the case of offences that have led to a term of imprisonment, whether or not suspended, the periods given will run from the date that the full sentence awarded by the court would have been completed.
- 1.6 Warnings issued by the Licensing Officers shall be considered relevant to the determination of the suitability of all applicants and existing licence holders with regard to the grant or continuation to hold a licence issued by the Authority.
- 1.7 A new applicant is a person who has not previously held a licence with this authority or whose licence had expired for 12 months before a valid application form was received in the Taxi Licensing Office.
- 1.8 Where an applicant has more than one conviction / caution showing a pattern or tendency irrespective of time since the convictions, serious consideration shall be given as to whether they are a 'fit and proper' person to hold a licence.
- 1.9 In relation to a single conviction / caution, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence may be granted. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed.

## **2. Assessment of previous convictions**

### **2.1. 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.

### **2.2. 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.

### **2.3. 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 ten (10) years have elapsed since the completion of any sentence imposed.

### **2.4. Possession of 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 (7) years have elapsed since the completion of any sentence imposed.

### **2.5. Sexual and indecency offences**

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.  
The licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

## 2.6. 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 (7) years have elapsed since the completion of any sentence imposed.

Failure to declare endorsement convictions, cautions, warnings, reprimands, anti-social behaviour orders, community protection notices, criminal behaviour orders, community service orders, restraining orders, fixed penalties (including traffic offences), driver education courses and any disqualifications from driving is regarded as a serious matter, whether it is through the omission of such matters when submitting an application to the Authority, or by not informing the Authority within 48 hours of receipt of their issue.

**Any person, who fails to declare on his or her application any such matters, should expect their application to be referred to the Hackney Carriage and Private Hire Licensing Sub-Committee, to determine their suitability to hold a licence.**

## 2.7. 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 ten (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 (5) 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.

## 2.8. 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 (7) years have elapsed since the completion of any sentence imposed.

## 2.9. Motoring convictions

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

New applicants should not normally be considered if they have acquired more than three penalty points within the twelve months prior to the application for the grant of a licence; or they have in the previous two years been convicted of any single offence which resulted in a points penalty of five or more points, or offences totalling more than six points.

If sufficient points have been accrued or offences committed resulting in a period of disqualification of the applicant's DVLA driving licence then an application for a Hackney Carriage or Private Hire driver licence may not normally be considered until a period of twenty-four (24) months has elapsed following its restoration and a warning should be issued as to future conduct.

If the DVLA driving licence of an applicant or an existing driver is revoked following the acquisition of six or more points during the first two years since passing the DVLA driving test, then a period of twenty-four (24) months following the restoration of the licence must have elapsed before a Hackney Carriage or Private Hire driving licence may be applied for.

Any motoring conviction while a licensed driver demonstrates that the licensee does 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. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

When a driver who is already licensed with this authority is disqualified from holding or obtaining a DVLA driving licence, the Hackney Carriage or Private Hire licence shall be suspended or revoked. A period of twenty four (24) months following the restoration of the licence must have elapsed before a Hackney Carriage or Private Hire driving licence application may be considered. The driver may be required to appear before the Hackney Carriage and Private Hire General Licensing Sub-Committee for determination.

Drivers already licensed by the authority and applicants awaiting the grant of a licence must inform the Taxi Licensing office within 48 hours of any new conviction.

For **existing licence holders**, a guideline is provided below in relation to penalty points:

**6 or less penalty points:** Where any current licence holder, has 6 or fewer points on their DVLA driving licence, the Licensing Officer will usually consider granting the licence with a written warning, as long as the licensee remains 'fit and proper' person. The number, type and frequency of an offence(s) will be taken into account when considering the level of warning.

**7 or more penalty points:** Where any current licence holder is convicted during the course of the licence of any single offence which results in a penalty of six or more points or acquires



seven or more penalty points should expect their licence to be suspended, refused or revoked taking into account the number, type and frequency of an offence(s). In exceptional circumstances the Licensing Officer may request an additional / new driving standards test at the expense of the Licence Holder.

**“Totting Up” under S35 Road Traffic Offenders Act 1988:** Where an applicant or current licence holder, has been disqualified under the “totting up” procedures, the Authority will normally consider refusal until there has been a **period of twelve (12) months** free of relevant convictions. If an applicant has agreed “exceptional hardship” and avoided disqualification, refusal shall still be considered and a **period of twelve (12) months** free of relevant convictions required.

#### **2.10. Other motoring offences**

A minor traffic or vehicle related offence is one which does not involve loss of life; or driving under the influence of drink or drugs; or driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least five (5) years have elapsed since the completion of any sentence imposed.

A major traffic or vehicle-related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving whilst disqualified, fail to stop after an accident, driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least seven (7) years have elapsed since the completion of any sentence imposed

#### **2.11. Drink driving / driving under 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 (7) 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

#### **2.12. Using hand-held telephone or hand-held device whilst driving**

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five (5) years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

#### **2.13. Hackney Carriage and Private Hire offences**

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

#### **2.14. Plying for Hire**

A serious view is taken of this offence, particularly since the vehicle will almost certainly have been carrying fare-paying passengers whilst uninsured. The offence is making one's vehicle available for public hire without a licence; this could be by taking a passenger without a booking in a licensed Private Hire vehicle or a picking up a fare without a booking in a Hackney Carriage vehicle outside of its licenced district. It is illegal for Private Hire drivers to park or stop in a prominent positions for the intention of taking a passenger (i.e. where people are likely to congregate, locations with a high level of footfall, near a taxi rank), without a pre-booked journey having been provided by a Private Hire Operator. The licence holder should expect further enforcement measures to be taken against them, including a full inspection of the vehicle and driver compliance against the conditions relating to both licences.

Licensing Officers may request from Private Hire Operator details of all bookings given to a driver, and further evidence if required that could assist with the Licensing Officer's investigation. If a Private Hire Operator is complicit in allowing the driver to book a journey for a member of public, rather than the passenger book the journey directly with the Operator, the Operator should expect for the Licensing Officer to undertake any necessary enforcement measures against the Operator itself.

The Licensing Authority regularly carries out what are known as “Test Purchase” Operations, where attempts are made to ascertain whether individual licence holders and Private Hire Operators knowingly ply for hire. If any licence holder is found to be non-compliant with regard to this matter during such an operation, they should expect the matter to result in a prosecution against them in the Courts. If convicted by the Court of a single offence of plying for hire, the licence holder will be required to appear before the Hackney Carriage and Private Hire Licensing Sub-Committee, where the licence holder should expect to receive a revocation of their licence.

If a licence is revoked a period of seven (7) years should have elapsed before any application is considered.

#### **2.15. Licensing History**

Applicants who have had a licence revoked or an application refused by the council or any other local authority will not be licensed for a minimum of five (5) years after the date of the revocation or refusal.

### 3. Complaints Against Licence Holder

- 3.1. Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.
- 3.2. The Authority operates a robust system for recording and investigating complaints, as well as analysing trends across the trade and individual licensees. This helps the authority to build a fuller picture of the potential risk an individual may pose and could tip the 'balance of probabilities' assessment that the authority must take. All complaints submitted to the Authority are investigated and dealt with by Licensing Officers. The licence holder is invited to make representations in regards to the complaint made against him/her. Should the complaint be of a serious nature, the licence holder may be requested to attend an interview.
- 3.3. The Licensing Officer will consider the conduct of the licence holder and determine what action should be taken, if any, whilst taking into account written submissions, evidence submitted or gathered during the investigation and the circumstances surrounding the alleged incident. The Licensing Officer will also consider the history of all complaints made against the driver to assess any patterns of behaviour and if deemed appropriate request additional background checks to be carried out.
- 3.4. In assisting the process all licensed vehicles are required to display information for passengers on how to make complaints directly to the licensing authority. For renewals, this requirement will take effect from the next licence renewal after the date of publication of this policy. The licensing authority will provide the information card to be displayed

### 4. Warnings Issued by Licensing Officers

- 4.1. The Licensing Officers carry out the day to day enforcement functions of the Licensing Authority. They deal with complaints made about licence holders, and carry out enforcement operations throughout the district. Such operations include the inspection of Hackney Carriage vehicles at the ranks, the checking of licensed drivers for adherence to the conditions attached to the driver, vehicle and operator licences, and checking that licence holders are complying with the relevant regulations pertaining to the licence.
- 4.2. Any failures on behalf of the licence holder to adhere to the criteria, conditions and regulation pertaining to the licence are dealt with, in the first instance, by way of Warnings. Unless the incident is of serious nature and must be escalated. It is this Authority's policy to provide advice and to educate the licensed trade in order to meet the licensing objectives as described in this Policy.
- 4.3. The levels of Warning issued by the Licensing Officers shall be proportionate to the incident that they deal with. However, should a licence holder be found to be continually failing to meet with the requirements of their licence, display a repetitious behaviour or be subject to a serious incident, the level of Warning shall be escalated.
- 4.4. A licence holder, who has shown a propensity to fail to adhere to the conditions and regulations pertaining to his or her licence, should expect the consequences to be much more severe. If deemed necessary the matter will be referred to the Head of Regulatory Services and Community Safety or the Hackney Carriage and Private Hire Licensing Sub-Committee or possibly lead to the suspension or revocation of the licence.
- 4.5. Any licence holder, who is issued with a Warning by the Licensing Officer and disagrees with that decision, has a right of appeal by way of written submission ([licensing@oxford.gov.uk](mailto:licensing@oxford.gov.uk)), to the Licensing Team Leader (or higher management) within **21 days of the Warning being issued**.

## APPENDIX FOUR

### Summary list of the amendments and recommendations to the revised **Policy on the Relevance of Warnings, Offences, Cautions and Convictions:**

- |   |   |
|---|---|
| <b>1. Duration of the Policy</b><br>(paragraph 3.5)   | The policy will remain in existence for a period of five years, during which time it shall be kept under review and revised as necessary. The Head of Regulatory Services and Community Safety in consultation with the Chair of the General Purposes Licensing Committee is authorised to make minor administrative amendments to the policy where necessary, and to amend the policy to reflect any changes in legislation, statutory guidance or similar.  |
| <b>2. Warning system</b><br>(paragraph 5.6-5.7)   | The warning system within the enforcement procedure has been revised to update the wording of the warnings. The escalation of the warning system is transparent and includes further sanctions, such as Immediate Suspension / Revocation and Hackney Carriage and Private Hire Licensing Sub-Committee powers.   |
| <b>3. Enhanced Disclosure and Barring Services (DBS) / Online Update Service / requirement to report matters</b><br>(paragraph 7) | <p>All applicants for a Taxi and Private Hire drivers licence must provide current Enhanced Disclosure and Barring Services (DBS) Certificate, as per criteria for licensing.</p> <p>All license holders must subscribe to the online DBS update service and maintain the subscription for the full duration of the licence. Where a driver fails to maintain their subscription with the online DBS Update service, or the DBS update check reveals new information, their licence may be suspended with immediate effect on the grounds of public safety.</p> <p>Where a council has reasonable cause for concern in regards to a licence holder, an enhanced DBS update check may be carried out. Should the check reveal any concerns or new information, the driver shall be notified of the outcome. The Authority shall also carry out annual background checks to ensure no changes in circumstances occurred during the validity of the licence.</p> |

All licence holders and new applicants, must report all new convictions, cautions, warnings, reprimands, anti-social behaviour injunctions, community protection notices, criminal behaviour orders, community service orders, restraining orders, fixed penalties (including traffic offences), court orders or others notices associate with child or adult safeguarding concerns, driver education courses and any disqualifications from driving, or another other notice or legal matter pertaining to a criminal or anti-social behaviour incident, in writing within 48 hours from the date of formal notification.

All licence holders are required to inform the council in writing within 48 hours if they are arrested, formally interviewed as a suspect or charged with an offence by the police or other enforcement body. This is to allow the council to be aware of any public safety concerns and to take appropriate action.

#### **4. Suitability to hold a licence** (paragraph 8)

The council criteria and description of a 'fit and proper' person to hold a licence has been revised to include the Statutory Taxi and Private Hire Vehicle Standards recommendation.

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.

Licensing Authorities have a duty to safeguard the public. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be given 'the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction and can take into consideration conduct that has not resulted in a criminal conviction.

The Licensing Authority is entitled to take into account all matters concerning an applicant or licensee. They are not simply concerned with that

	<p>person's behaviour whilst working in the Hackney Carriage or Private Hire trade. This consideration is far wider than criminal convictions or other evidence of unacceptable behaviours, and the entire character of the individual will be considered. This can include but is not limited to, the individual's attitude and temperament</p>
<p><b>5. NR3 – National Register of Taxi and Private Hire Vehicle Driver Licence Refusals and Revocations</b> (paragraph 9.1)</p>	<p>The Authority intends to introduce and use the national register NR3, to share information and mitigate the risk of non-disclosure of relevant information by applicants.</p> <p>Applicants and licensees are required to disclose if they hold or have previously held a licence with another authority. As well as, if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. Where drivers have been licensed with other authorities, this authority shall carry out checks with those authorities for any information that may be relevant to the application being considered.</p>
<p><b>6. Safeguarding</b> (paragraph 12)</p>	<p>Safeguarding within the Taxi and Private Hire has been revised, with a main message that safeguarding is everyone's responsibility. All applicants must complete the mandatory Safeguarding and Disability Awareness course before licence can be granted and all current licence holders must complete the training every three years. Educational safeguarding material for the trade, including safeguarding in the night time economy and county lines has been updated.</p> <p>Licence holders are obliged to report if there is an immediate risk of harm to a child or vulnerable adult to the relevant authorities.</p>
<p><b>7. Assessment of previous convictions</b> (paragraph 2, Guidelines)</p>	<p>Assessment of previous convictions had been revised in its entirety and it aligns with the Department for Transport Statutory Taxi and Private Hire Vehicle Standards recommendations.</p>
<p><b>8. Complaints against Licence Holders</b> (paragraph 3, Guidelines)</p>	<p>In assisting the process all licensed vehicles are required to display information for passengers on how to make complaints directly to the licensing authority. For renewals, this requirement will take effect from the next licence renewal after the date of publication of this policy. The licensing authority will provide the information card to be displayed.</p>

## **9. Medical Certificate Form**

The Medical Certificate Form has been updated and is now in the form of the DVLA Group 2 medical form D4. All the medical questions / examination remain the same.

**For full information please refer to the revised Policy on the Relevance of Warnings, Offences, Cautions and Convictions.**

*\*All the Application Pack documents (driver, vehicle and operator) shall be revised and updated according to the final agreed Policy on the Relevance of Warnings, Offences, Cautions and Convictions by the Council.*

## **Minutes of a meeting of the General Purposes Licensing Committee on Monday 7 February 2022**



### **Committee members present:**

Councillor Clarkson (Chair)	Councillor Cook
Councillor Corais	Councillor Coyne
Councillor Dunne	Councillor Jarvis
Councillor Miles	Councillor Mundy
Councillor Rehman	Councillor Upton
Councillor Wade	

### **Officers present for all or part of the meeting:**

Alison Daly, Lawyer  
Emma Thompson, Senior Licensing Compliance Officer  
Katie Thorp, Licensing Compliance Officer  
David Stevens, Business Regulation Team Manager  
Alice Courtney, Committee and Member Services Officer

### **Apologies:**

Councillor(s) Humberstone, Gant and Thomas sent apologies.

## **11. Declarations of interest**

None.

## **12. Commercial Events, Hackney Carriage and Private Hire, Road Closure Orders, Scrap Metal Dealers, Sex Establishments and Street Parties: Licence Fees and Charges for the 2022/23 Financial Year**

The Head of Regulatory Services and Community Safety had submitted a report to seek agreement of the licence fees for 2022/23 where the Council had discretion over the level of fee charged.

The Senior Licensing Compliance Officer introduced the report. It was proposed that no substantial variation to the current fees and charges was made in 2022/23 in order to provide financial stability to licence holders in the present economic climate. It was added that the Taxi Licensing Fees may be revisited later in the year, but this was not confirmed and the fees would be brought to the Committee for consideration in the event they were revised.

In response to questions, the Senior Licensing Compliance Officer confirmed:

- That she had been asked to mention the possibility of the Taxi Licensing Fees being revisited because they had not been revised for some time, but there was no immediate intention to revise them.
- That one-year licences were only issued in special circumstances by the Licensing Team Leader (e.g. the economic climate due to COVID-19 or driver retirement).
- That the fees were set to reflect the Council's costs (e.g. sex entertainment premises were more expensive, but this reflected the work that went into conducting more inspections to ensure compliance with relevant legislation and regulations).

The Committee resolved to:

- **Agree** the licence fees and charges for 2022/23 as set out in Appendix 1 and recommend them to Council.

### **13. Miscellaneous Licensing: Fees and Charges for the 2022/23 Financial Year**

The Head of Regulatory Services and Community Safety had submitted a report to seek agreement of the licence fees for 2022/23 where the Council had discretion over the level of fee charged.

The Business Regulation Team Manager introduced the report. It was proposed that no inflationary increase was made to the 2022/23 fees and charges for Street Trading in order to promote and support local businesses, but small changes to application fees in line with general increases were outlined in the report.

The Business Regulation Team Manager drew the Committee's attention to the Pavement Licence provisions, which were meant to be a temporary measure to enable businesses to trade outdoors in accordance with previous COVID-19 regulations. He advised that this was a lifeline for many businesses and Oxford City currently had around 100 Pavement Licences.

The current Pavement Licence provisions implemented by the Government would last through to September 2022, but there was no indication of whether the provisions would be extended beyond then. If the provisions were not extended then there would be a requirement to use the Café Licence provisions, but the difference was that planning permission was required alongside a Café Licence and it was a longer drawn out process. In the event that the Pavement Licence provisions were not extended, it was proposed that the Council would offer Café Licences at three prices, taking into account the proposed footprint of the outdoor area. The Business Regulation Team Manager confirmed that the provisions only applied to tables and chairs on a Public Highway and not in a private garden.

In response to a question, the Business Regulation Team Manager advised that the team had not consulted with businesses on the costs and whether they were reflective of the likely income businesses would get from the use of that seating. Members of the Committee were satisfied that the maximum annual charge of £250 outlined in Appendix 1 was not prohibitive to businesses.

The Committee resolved to:



- **Agree** the licence fees and charges for 2022/23 as set out in Appendix 1 and recommend them to Council.

#### 14. Minutes of the previous meeting

The Committee agreed to **approve** the minutes of the meeting held on 02 December 2021 as a true and accurate record.

#### 15. Dates and times of meetings

The Committee was advised that an additional meeting was required in order to agree the Policy on the Relevance of Warnings, Offences, Cautions and Convictions. The proposed date for this meeting was Thursday 17 March 2022, 6.15pm.

The Committee resolved to:

- **Agree** the proposed date for the additional meeting to consider the Policy on the Relevance of Warnings, Offences, Cautions and Convictions.

The Committee noted the dates and times of future meetings.

**The meeting started at 6.15 pm and ended at 6.30 pm**

**Chair .....**

**Date: Thursday 17 March 2022**

*When decisions take effect:*

*Cabinet: after the call-in and review period has expired*

*Planning Committees: after the call-in and review period has expired and the formal decision notice is issued*

*All other committees: immediately.*

*Details are in the Council's Constitution.*

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