

DEPARTMENT: ENVIRONMENT AND OPERATIONS

ORIGINATING SECTION : PUBLIC PROTECTION SERVICE

REPORT TO : LICENSING COMMITTEE

26th Jan 21

TITLE : Department of Transport Statutory Taxi and Private Hire Vehicle Standards

1. PURPOSE

To inform members of the published Department of Transport (DfT) “Statutory Taxi and Private Hire vehicles standards” and officers proposals for working towards compliance with the standards.

2. RECOMMENDATIONS

That members note the report, and direct officers to consult on the necessary amendments to Policy for compliance with the standards

3. KEY ISSUES

The Council is responsible for licensing hackney carriage and private hire drivers, vehicles and private hire operators. In undertaking those responsibilities, the Council has regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures.

On 21 July 2020 the DfT published “Statutory Taxi and Private Hire Vehicle Standards. The Standards are applied to local authorities having regard to the Policing and Crime Act 2017 which enables the Secretary of State for Transport to issue statutory guidance to local authorities as to how taxi (hackney carriage) and private hire licensing should be undertaken to protect children and vulnerable adults when using taxis and private hire vehicles.

A copy of the DfT standards are attached at Appendix A. The Council will need to review its taxi licensing policies and standards so that as a minimum they meet the standards outlined in the DfT document but that any standards adopted must be appropriate for Blackburn with Darwen’s local needs, and the Council will need to be transparent in explaining the reasons for the standards

4. RATIONALE

This report does not provide the finite details of the DfT document, the document is attached at Appendix A. The intention of this report is to introduce the document to the Committee and agree the next steps regarding its consideration.

The following paragraphs provide a general overview of The Standards Appendix A and the areas in that document that as a council we need to explore. Paragraph numbers are taken from the document and are therefore not sequential.

2.4 The standards recommend that local authorities provide a “taxi licensing policy” a single point of reference which includes all information relevant to private hire and taxi licensing. Blackburn with Darwen Borough Council carried out a major review of its Hackney Carriage and Private Hire Licensing Policy in 2017. The current policy is published on the Council’s website
<http://www.blackburn.gov.uk/Taxi%20licences/HC-and-PH-Policy.pdf>

2.5 Following production of an updated Taxi Licensing Policy, the Council would be expected to review existing licences against the content and standard of the new policy. It is also advocated that the Councils Taxi Licensing Policy should be reviewed every 5 years or sooner if appropriate

2.6 details requirements in relation to complaint investigations and trends analysis. Recording and investigations systems are in place within the Licensing unit, however the introduction of formalised trends analysis – including regular reporting to committee would offer transparency and assist the Committee in decision making.

Similarly at para 4.31 of the Standards advocate actions the local authority should do to ensure that the public know how to make complaints against the licensed trade. Officers will review our current procedures and explore whether a Lancashire wide project could develop this so that a consistent message is developed across the County.

2.7 The Standards advocate the use of the DBS update service. This was introduced in Blackburn with Darwen as Council Policy in 2017 and is now in place for all new and renewal driver applicants, however, there is no policy in place as to how often checks are to be carried out with the update service, this is something that could, ~~aim to~~ in future, be standardised across neighbouring authorities.

2.8 The Standards make considerable reference to training, both in terms of driver training and training to be undertaken by officers and Committee members involved in making decision on taxi/ private hire licensing matters. There are also requirements for training to be formally documented.

6.14 of the Standards states that drivers need to be proficient in English as a lack of language proficiency could affect a driver’s ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others. A licensing authority’s test of a driver’s proficiency should cover both oral and written English language skills to achieve the objectives stated above. Officers will need to explore this to achieve compliance with the

standards Transport for London TFL introduced this requirement in September 2020. See appendix 2 at the time of writing this report officers are exploring options with local colleges, a verbal update will be provided at the committee hearing

2.8 of The Standards provide an Annex in respect of the Assessment of Previous Convictions. It provides minimum time periods for various types of offences/ convictions, and it would be appropriate for the Council to assess the Annex against the Councils current guidelines on conviction policy, which reflect a national standard developed and promoted by the Institute of Licensing. The current changes needed in our policy to fall in line with national standards are detailed in table below

Offence type	Current	Change to
Exploitation	Not separately listed	Never issue a licence
Violence	3, 5 or 10 years depending on offence	10 years
Possession of weapon	5 or 7 years depending on offence	7 years
Dishonesty	3 or 5 years depending on offence	7 years
Discrimination	Not separately listed	7 years
Motoring - 7 points + or a major traffic offence	2 to 5 years depending on offence	5 years
Drink/drug driving	2 to 5 years depending on offence	7 years
Use of mobile phone whilst driving	1 year	5 years

For other offence types Blackburn with Darwen Borough Council's current policy is in line with the IOL Guidance/ DfT Standards.

7.1 of the Standards Vehicle Licensing –

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.

8.1 of the Standards Operator Licensing

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 licence 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 vehicle proprietors Enhanced DBS and barred list checks are not available for vehicle and operator 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 A to the standards (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold

8.7 of the Standards Booking and dispatch staff

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. 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. As responsible employers they should be required they have had sight of a basic DBS for their staff

7.7 of The Standards In-vehicle visual and audio recording – CCTV

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 drivers

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. 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.

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.

Since 1st April 2019 51 complaints have been received about the conduct of licensed drivers, if CCTV had been installed in the vehicles, officers and members would have been assisted in determining any enforcement action. Additionally with CCTV installed the amount of complaints would fall, it would also protect drivers from incidents where passengers don't pay for their fare or abuse drivers.

5. POLICY IMPLICATIONS

Blackburn with Darwen Borough Council's Taxi Licensing Policy will need to be up dated to reflect changes brought about by the . Department of Transport Statutory Taxi and Private Hire Vehicle Standards

6. FINANCIAL IMPLICATIONS

Any financial costs incurred through the adoption of the Department of Transport Standards will be taken into account when calculating fees for taxi related licences.

7. LEGAL IMPLICATIONS

The Statutory Taxi and Private Hire Vehicle Standards are not legislation. However para 1.3 of the Standards states- The Department (for Transport) expects these recommendations to be implemented unless there is compelling local reason not to. The document makes it clear that the standards have been developed as a result of past failings of licensing regimes and makes reference to both Jay and Casey reports and lists several local authorities where taxi licensing policy and practice had failed to offer the necessary protection to children. The duty is a "have regard" duty. This means that the Council must take the standards into account and must give clear reasons for departing from them to avoid the risk of a legal challenge.

8. RESOURCE IMPLICATIONS

Existing staff in the Public Protection Service will undertake the associated work in adopting the standards. Officer resources are currently hampered by the impact of the Covid 19 pandemic, it is envisaged that consultation on the proposed changes to policy can be completed by March 2021, but there is a potential for slippage if other work streams take priority.

9. CONSULTATIONS

If the Licensing Committee is minded to adopt the standards officers will consult on the document with the taxi trade.

10 . CONTACT OFFICER

Donna Riding – Principal Officer - Licensing
Telephone 01254 585004