

## DEPARTMENT OF ENVIRONMENT AND LEISURE

ORIGINATING SECTION: PUBLIC PROTECTION UNIT

REPORT TO: LICENSING COMMITTEE - 26 April 2022

TITLE: Statutory Taxi and Private Hire Vehicle Standards – Review of Convictions Policy

### 1. PURPOSE

The purpose of this report is to present a revised draft policy on convictions and other relevant considerations for members to consider and amend as necessary (**Appendix 1**). Officers will then undertake consultation with the trade and other relevant stakeholders.

### 2. RECOMMENDATIONS

- 2.1 That members consider and agree the contents of the draft policy as presented, or with amendments.
- 2.2 That the Principal Licensing Officer is directed to undertake a six week public consultation exercise.
- 2.3 That the outcome of the consultation exercise is reported back to the next scheduled meeting of the Licensing Committee.

### 3. KEY ISSUES

- 3.1 The Department for Transport published its Statutory Standards for Private Hire and Hackney Carriage Vehicles in the summer of 2020 (**Appendix 2**) and the expectation of the Government was emphasised throughout the document in bold.
- 3.2 Annexed to the document are the Department's recommendations on the assessment of previous convictions which draws on the work of the Institute of Licensing (in partnership with the LGA, the National Association of Licensing Enforcement Officers and Lawyers in Local Government), which resulted in the publication of guidance on determining the suitability of applicants and licensees in the hackney and private hire trades in 2018.

Paragraph 5.17 of the Statutory Standards says “that 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”.

3.3 The following paragraphs are also particularly relevant to this matter.

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.**”

2.6 The document sets out a framework of policies that, under section 177(4), of the Policing and Crime Act 2017, 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.

3.4 Blackburn with Darwen’s current policy was agreed across the ten Greater Manchester licensing authorities and Blackburn with Darwen in 2012, as part of the Public Protection Partnership in place at that time.

3.5 Section 4.4 of the draft policy reflects para 4.12 of the Statutory Standards which indicate that “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”.

3.6 Licensed drivers are currently required through conditions on their licences to notify the Licensing Authority without delay of any police cautions, criminal convictions, motoring offences including penalty points on their DVLA licence and any pending court proceedings. The Council’s standard conditions for drivers licences will be updated to reflect this, when the revised convictions policy is adopted.

3.7 The rehabilitation periods detailed in the Statutory Standards and the Institute of Licensing’s suitability guidance have been compared to the existing policy and are summarised in the table.

Offence type	Current	IoL / Stat Standards
Exploitation	Not separately listed	Never
Sexual Offences including sex offenders register and barred lists	Never, 5 or 10 years depending on offence	Never
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 offences	6 months to 5 years depending on offence	5 years minor 7 years major
Drink/drug driving	2 to 5 years depending on offence	7 years
Use of mobile phone whilst driving	1 year	5 years
Licensing offences i.e. unlawful plying for hire	2 years or more than 1 conviction in last five years	7 years

3.8 In order to incorporate the Government's clearly expressed minimum standards when considering the offending behaviour of applicants and licensees, the existing policy has been comprehensively redrafted to align it to the recommendations in the Statutory Standards in respect of criminal offences and the additional elements that featured in the IoL's 2018 guidance.

3.9 Sections 5 to 16 in the draft policy presented have been colour coded to assist members.

No highlighting - direct lift from statutory standards

Blue highlighting - direct lift from IoL guidance

Yellow highlighting - suggested local deviation from statutory standards as detailed below.

Section 7.2 - These types of offence would arguably be caught by the violent offences para in the Statutory Standards Annex and trigger 10 years. All four

either involve threatening behaviour or result in no/very minor injuries and are at the lower end of the spectrum of violent crimes. They are 3 years under our current policy. It is suggested that extending the time to 5 years would be a reasonable compromise.

Section 7.3 – This offence also falls with the violent offences category although the violence is directed at property rather than a person. It is 3 years currently and it is suggested that it remains that way.

Section 10.2 – This could be relied on where the Authority has evidence that would support a prosecution under s.57(3) LGMP – knowingly/recklessly making a false statement or omitting material particular in giving information.

Section 13.5 – It is relatively common for drivers to commit motoring offences outside their working hours. It is suggested that where such offences are committed whilst carrying passengers whose safety could be compromised, this would be an aggravating factor when determining any sanction.

#### **4. POLICY IMPLICATIONS**

Once adopted, members must have regard to the revised policy when determining private hire and hackney carriage applications and reviews.

#### **5. FINANCIAL IMPLICATIONS**

The costs incurred as part of the consultation process are accounted for in the discretionary fees charged for driver licences.

#### **6. LEGAL IMPLICATIONS**

The Department for Transport published the Statutory Standards in 2020 with a requirement to review and revise policies and practices to implement the new standards unless there is a compelling local reason not to. However, the revised policy is not immutable, and every case must be considered on its own merits.

#### **7. RESOURCE IMPLICATIONS**

Existing staff in the Public Protection Service will implement the revised policy once it has been approved for adoption.

#### **8. CONSULTATIONS**

Consultation on the approved draft policy will be undertaken with existing licence holders and other stakeholders representing user groups.

#### **9. CONTACT OFFICER**

Niky Barrett, Principal Officer – Licensing