

Summary of material changes and consultation responses

3.6 DBS Update Service

- 3.6.1 All licensed drivers must sign up to the DBS update service and maintain their registration throughout the licensed period, to enable the Council to undertake periodic checks at least every 6 months, in accordance with the Statutory Taxi and Private Hire Vehicle Standards.
- 3.6.2 Licensed drivers who fail to register with the update service, or who allow their registration to lapse, will be required to provide a new enhanced certificate every six months.
- 3.6.3 Where the Council is unable to check the driver's status due to failings on the part of the driver, it may suspend the drivers licence until such time as it is satisfied that there is no new information recorded against the driver.
- 3.6.4 Nothing in this section will negate the requirement for licensed drivers to inform the Council within 48 hours of any arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
- 3.6.5 If there has been a change to the information held by the DBS, the driver will be required to provide a new certificate to the Council and register that one with the update service.

Rationale

The Statutory Standards para 6.2 states **“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.”**

Since 2018 the Council has encouraged drivers to sign up to the update service to allow the Licensing service to verify that the driver has not committed any further offences or had any other relevant information recorded against them since their last DBS was issued. Such checks have only been carried out at the point of renewal which is every 1 or 3 years depending on the length of licence held.

It has become apparent over the last 4 years that whilst the majority of driver's will initially register with the update service, they then allow their registration to lapse, leaving the authority unable to check their offending records online.

Blackburn with Darwen currently has almost 1,200 licensed drivers. To carry out the bi-annual checks required by the Statutory Standards, the Council will need to automate this process through the third party supplier that already deals with the Council's DBS checks, as the licensing service does not have the resources to undertake these checks manually. Drivers must maintain their subscription to allow this to happen, or stand the cost and inconvenience of having to produce a new certificate every 6 months.

Consultation Response

There was some resistance at the Taxi Forum to any automatic suspension of driver licences if licensed drivers were not on the update service. It was explained that the power to suspend was discretionary and would only be used where drivers fail to respond promptly to requests for new certificates, if they had not maintained their registration with the update service.

3.8 English proficiency

- 3.8.1 The Statutory Taxi and Private Hire Vehicle Standards 2020 identify that 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.
- 3.8.2 It goes on to state in para 6.15, that a licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve these objectives.
- 3.8.3 The Council requires all applicants for new driver's licences to demonstrate their language proficiency, either by providing evidence of formal qualifications such as GCSE, GCE, Functional Skills Level 1 or 2 in English, or ESOL certificate at Level 1 or 2.
- 3.8.4 Applicants who do not hold any formal qualifications in English must undertake a free skills assessment provided by Blackburn Adult Learning service and provide evidence that they have passed the assessment.

Rationale

This is a new requirement introduced by the Statutory Standards with the relevant wording reflected in the draft. The skills assessment is free and the ESOL courses are also free for people with low or no income.

Consultation Response

At the Taxi Forum a Private Hire Operator who is licensed to operate 1 vehicle and a second operator licensed to operate up to 10 vehicles, voiced concerns that this would make recruiting new drivers difficult, but the proposal was supported by a third operator. The PHDA have indicated they had no problem with this proposal

3.9 Driver Training and Knowledge Test

- 3.9.1 Applicants for a new driver's licence will be required to pass the Blackburn with Darwen Knowledge Test before being issued with a licence. A fee is required for the driver training sessions and tests and any applicant cancelling an appointment with less than 48 hours' notice, will not be eligible for a refund.
- 3.9.2 The Council publishes a comprehensive guidance pack and training for new drivers on its website, to help them prepare for the driver training and knowledge test.
- 3.9.3 If an applicant fails three successive tests, their application will be rejected and a period of 12 months must elapse, before they will be eligible to book onto the driver training session again.
- 3.9.4 Applicants must bring in their photo-card driving licence on the day of the test. This must be in date and have their current address on it.

Rationale

The council has moved the booking facility online as part of a wider project to move to a fully online application service for applicants for driver licences. Candidates now pay online and this amendment simplifies the cancellation process and removes the need for candidates to pay an additional cancellation fee. The introduction of a cap on the number of attempts available to candidates would not have a negative impact on the majority of new applicants who prepare for the training using the published materials and are able to pass on their first, second or third attempt.

Consultation Response

At the Taxi Forum, the operator who submitted the written response (Appendix 5) spoke out against the proposed cap on attempts. They also suggested that the local routes element of the test be scrapped altogether.

Another operator supported the proposal

The PHDA have indicated they had no problem with this.

3.10 Safeguarding and Child Sexual Exploitation (CSE) training

3.10.2 In order for them to recognise the signs of CSE and other forms of exploitation such as County Lines, all applicants for Blackburn with Darwen driver licences must have successfully completed an eLearning Safeguarding Course provided by the Council's nominated provider.

Rationale

The current driver training provided for new applicants by the licensing services includes an overview of safeguarding and CSE.

Paragraphs 6.5 – 6.13 of the Statutory Standards place a much greater emphasis on the need for licensed drivers to be 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. It also acknowledges the National Crime Agencies 2018 county lines threat assessment which highlighted the road network as key to the transportation of county lines victims, drugs and cash.

There are a number of accredited training providers who have developed specialist online training for the taxi trade that covers all of these elements and who regularly review and update their training programmes to include emerging threats and national trends.

By moving that element of the driver training to a specialist provider, we can ensure that new drivers have received the most up to date training in this very important area and it will allow the Council provided driver training to concentrate on the local rules and national legislation that driver's need to be aware of.

Consultation Response

No negative responses

3.12 Medical Fitness

3.12.3 Medical certificates, completed by the driver's own GP practice, or by one of the Council's approved suppliers for medicals as published on the Council's website, are required on first application and then every 5 years from age 45 until the age of 65 when they are required annually

Rationale

The Council requires drivers to meet the group 2 standard of fitness that is applied to other professional drivers and uses the D4 form to collect this information. The current policy specifies that the medical should be completed by the drivers own GP, but does not currently require medicals at the same frequency the DVLA.

The DVLA are responsible for issuing PSV and HGV driver licences and require a group 2 medical assessment recorded on the D4 form, on first application and then again at 45 years of age, then every 5 years until the driver turns 65 and then every year. The proposal is to adopt the same frequency of medical assessment used by the DVLA.

Despite the wording in the current policy, the Council has for a number of years accepted medical certificates from 2 other approved providers, to ease the pressure on drivers who were unable to get appointments from their own GP's for these medicals. This established practice is now reflected in the revised wording.

Consultation Response

The PHDA's formal response is that this is 'Not Agreed'.

4. Hackney Carriage and Private Hire vehicles

4.1.1 The Council will not issue a vehicle licence for any vehicle which is licensed as either a hackney carriage or private hire vehicle with any other Local Authority. If the Council becomes aware that other vehicle licences are running concurrently with this Council's licence, the Blackburn with Darwen vehicle licence will be immediately revoked.

Rationale

This requirement is explicit in most licensing authority policies or vehicle conditions including Transport for London, but the Council's policy is currently silent in this respect. It is felt necessary to make the provision explicit, to remove any doubt in the trade's mind that it is possible to operate a vehicle licensed by more than one authority.

All Licensing authority's issue vehicle licences subject to conditions which specify the plate and signage that the vehicle must display - Section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA).

If a licensed vehicle displays any signs that are not approved by this Council, or does not display the plates and signs that are required by this Council, at all times that the vehicle licence is valid, it would be operating in breach of the licence conditions. Section 60(3) LGMPA, provides for a vehicle licence to be suspended or revoked for any reasonable cause, which includes operating in breach of conditions.

Consultation Response

At the Taxi Forum a Private Hire Operator who is licensed to operate 1 vehicle spoke out against this proposal and another raised concerns about the impact of this on accident management companies.

4.1.2 New vehicles being presented for a licence must meet the following minimum emissions standards.

Euro 4 emission limits (petrol)

CO – 1.0 g/km
HC – 0.10 g/km
NOx – 0.08
PM – no limit

Euro 6 emission limits (diesel)

CO – 0.50 g/km
HC+ NOx – 0.17 g/km
NOx – 0.08 g/km
PM – 0.005 g/km
PM – 6.0×10^{-11} /km

Rationale

The Department for Transport consulted earlier this year on an update to their best practice guidance which confirms in para 8.29 that Licensing authorities should not impose age limits for the licensing of vehicles, but should consider more targeted requirements to meet its policy objectives on emissions etc.

The suggested emission standards for new vehicles will contribute to the Council's Climate

Emergency Action Plan and commitment to improve air quality. They are the same standards as those referenced in the Department for Transport's 2020 Clean Air Zone Framework - Annex A, Clean Air Zone minimum classes and standards.

Consultation Response

There was a general opposition to this proposal at the Taxi Forum.

The PHDA's formal response is that this is 'Not Agreed'.

The 3 individual responses passed on by the Hackney Carriage Association all oppose this proposal.

Objections have been sent by an operator on behalf of 30 drivers against the introduction of the Euro 6 policy

2 of the individual responses directly to the Licensing service specifically oppose this proposal and the Executive Member has agreed not to recommend this proposal.

4.3.3 The Council will not issue a vehicle licence for any vehicle that has been written off by insurers under category A, B or S.

- A relates to vehicles that must be scrapped
- B relates to vehicles that may be broken and their parts reused
- S relates to vehicles that have sustained structural damage that is repairable.

Rationale

The council's policy is currently silent in respect of licensing vehicles which have been written off for insurance purposes, but which may be presented for licensing. Category N vehicles are those that have sustained non-structural damage that is repairable and so would be eligible for a licence if they can pass the council's vehicle testing requirements.

Consultation Response

There was a general opposition to this proposal at the Taxi Forum.

The PHDA's formal response is that this is 'Not Agreed'.

1 of the individual responses directly to the Licensing service specifically opposed this proposal and the Executive Member has agreed not to recommend this proposal.

6. Private Hire Operators

6.3 Disclosure and Barring Service Checks

6.3.1 In accordance with the Statutory Guidance the Council requires applicants to provide a recent basic DBS certificate before a private hire operator's licence will be granted, and then annually throughout the duration of the licence, in respect of the person named on the licence, or for each director or partner where the licence is held by a company or partnership.

6.3.2 Where an applicant, director or partner also holds a valid Blackburn with Darwen driver's licence, the requirements in 6.3.1 are dis-applied in respect of that individual.

6.3.3 Any applicant who has spent six continuous months or more, overseas within the last 5 years, will also be required to produce a Certificate of Good Conduct from the relevant Embassy or High Commission, for each country where they resided. The certificate must have been produced no more than 3 months before it is presented to the Council. This document must be a certified translation, if the original Embassy Certificate is not in English

6.3.4 Operators are also expected to be able to demonstrate that all staff who have contact with the public or oversee the dispatching of vehicles do not pose a risk to the public and should evidence that they have had sight of a satisfactory Basic DBS check for each individual named on the register required by 6.6.4.

6.3.5 Applications for private hire operators licences must provide a copy of their policy on employing ex-offenders in roles that would be on the register required by 6.6.4.

6.6 Records

6.6.4 A register of dispatch staff, who are not also licensed drivers, which includes their full name, address, date of birth and National Insurance number, shall be maintained and made available to an authorised officer of the Council on request.

Rationale – These are new requirements introduced by the Statutory Standards.

Consultation Response

At the Taxi Forum a Private Hire Operator who is licensed to operate 1 vehicle and a second operator licensed for up to 10 vehicles spoke out against 6.3.1.

One operator also asked how 6.3.4 could be applied to overseas call centres.

Another operator asked if the Council would be providing guidance on the policy for ex-offenders and it was suggested that a sub-group could be established to look at producing a template for all operators to use.

6.6.5 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, is not permitted without the informed consent of the booker.

Rationale - This is a new requirement introduced by the Statutory Standards.

Consultation Response

At the Taxi Forum a Private Hire Operator who is licensed to operate 1 vehicle said this would be impractical as drivers are diverted whilst going to jobs

Revised Convictions Policy

13.3 A minor traffic or vehicle related offence is considered to be one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property, including vehicles.

An applicant with 7 or more points on their DVLA licence for minor traffic or vehicle related offences, will not be granted a licence until at least 5 years have elapsed since the completion of any sentence imposed.

Rationale – The statutory standards address motoring convictions in the following 2 paragraphs from the Annex – Assessment of Previous 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.”

The remainder of the offences referred to in the Annex are directly lifted from the Institute of Licensing's (IOL) 2018 guidance on determining the suitability of applicants and licensees in the hackney and private hire trades.

That guidance was produced by the IOL in partnership with the Local Government Association, Lawyers in Local Government and the National Association of Licensing and Enforcement Officers, following widespread consultation, to assist Licensing authorities assess the fitness of individuals to hold licences.

Para 4.42 of the IOL guidance on the assessment of minor traffic or vehicle offences is replicated in para 13.3 of the draft policy.

Consultation Response

There was a general opposition to this proposal at the Taxi Forum.

The PHDA's formal response is that this is 'Not Agreed' and the Executive Member has agreed not to recommend this proposal.

1 of the individual responses directly to the Licensing service specifically supported this proposal.

If Committee remove this clause, minor traffic offences as defined in para 13.3 will continue to be considered under the existing convictions policy and the relevant sections will be incorporated into the revised draft.

It is worth noting that there have been no objections raised to para 13.4 which deals with major traffic offences that result in injury to any person, damage to property including vehicles, driving without insurance or other insurance related offences.

The PHDA has also 'Not Agreed' 3 other elements from the draft policy which have not been amended as part of this review.

1) Conditions attached to drivers licences - Appendix 2 – Smoking in private hire vehicle fines

This is not a condition on a licence, but the Licensing Service do include reference to the Health Act 2006 on all driver licences, to remind the holder of the offences and penalties that have been in place since the Smoke Free legislation came into effect on 2006.

2) Appendix 9 – Private Hire and Hackney Carriage Penalty Points Scheme

This scheme was introduced before the last policy revision in 2016 and remains unchanged.

3) 3.5 Disclosure and Barring Service checks - para 3.5.3 relating to Certificate of good conduct requirements

This requirement was introduced in Blackburn in the 2016 Policy review

The Statutory Standards also address Overseas convictions in 4.34 and 4.35 below.

'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.

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.'