



Uttlesford District Council

Chief Executive: Dawn French

Extraordinary Licensing and Environmental Health Committee

Date: Wednesday, 20th March, 2019

Time: 7.30 pm

Venue: Committee Room - Council Offices, London Road, Saffron Walden,
Essex CB11 4ER

Chairman: Councillor R Chambers

Members: Councillors G Barker, J Davey, M Foley, A Gerard, T Goddard (Vice-Chair), J Gordon, E Hicks and S Morris

Substitutes: Councillors H Asker, J Freeman, R Freeman, D Jones and
J Loughlin

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given notice by 12 noon two working days before the meeting.

AGENDA PART 1

Open to Public and Press

1 Apologies for Absence and Declarations of Interest

To receive any apologies for absence and declarations of interest.

2 Review of Uttlesford District Council's Taxi Licensing Policies 5 - 132

To consider the review of Uttlesford District Council's Taxi Licensing Policies.

MEETINGS AND THE PUBLIC

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The agenda is split into two parts. Most of the business is dealt with in Part I which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

Agenda and Minutes are available in alternative formats and/or languages. For more information please call 01799 510510.

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Committee:	Licensing and Environmental Health	Date:
Title:	Review of Uttlesford District Council's Taxi Licensing Policies	20 th March 2019
Report Author:	Oliver Rawlings, Licensing Consultant (EHDC Service Manager – Licensing & Enforcement)	Item for decision: Yes

Summary

1. To inform the Committee of the consultation responses to the proposed changes to UDC Taxi Licensing Policies and seek endorsement of final documents for recommendation to Council for adoption.

Recommendations

2. For the Committee to note and comment upon the consultation responses and endorse the proposals to introduce training and testing for new applicants for both all drivers licences.
3. For the Committee to note and comment upon the consultation responses and endorse the proposals to introduce an update course for existing drivers licence holders at renewal.
4. For the Committee to note and comment upon the consultation responses and endorse the proposal (as amended) for the introduction of a Suitability Policy for applicants in the Hackney Carriage and Private Hire Trade.
5. For the Committee to note and comment upon the consultation responses and endorse the proposal for the introduction of a driving proficiency test for all new applicants all drivers licences.
6. For the Committee to note and comment upon the consultation responses and endorse the proposal (as amended) for the introduction of a new vehicle emissions policy which will apply to all licensed vehicles.
7. For the Committee to note and comment upon the consultation responses and endorse the proposal (as amended) for revised:
 - a) vehicle standards; and
 - b) vehicle licence conditions; and
 - c) driver licence conditions; and
 - d) Operator licence conditions.
8. That the above proposals and documents be endorsed and recommended for approval by Council.

Financial Implications

9. There are no financial implications as the implementation and operation of the taxi licensing regime operates on a cost recovery basis except for the enforcement and compliance costs relating to drivers and operators.

Background Papers

10. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
 - Taxi and Private Hire Licensing: Best Practice Guidance from the Department for Transport (March 2010)¹
 - Taxi and Private Hire Vehicle Licensing: Protecting Users: Statutory Guidance for Licensing Authorities (currently being consulted upon)²
 - Law Commission in its report on Taxi and Private Hire Services³
 - Local Government (Miscellaneous Provisions) Act 1976⁴
 - Institute of Licensing, Guidance on determining the suitability of applicants and licensees in the hackney and private hire trade⁵
 - Report of the Taxi Task and Finish Group on taxi and Private Hire Vehicle Licensing and the Government response to that report from February 2019⁶
 - Report and Minutes of the Licensing & Environmental Health Committee on 27th November 2018⁷

¹ <https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>

² <https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-licensing-protecting-users>

³ http://www.lawcom.gov.uk/app/uploads/2015/03/lc347_taxi-and-private-hire-services.pdf

⁴ <https://www.legislation.gov.uk/ukpga/1976/57>

⁵ [https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775983/taxi-task-and-finish-gov-reponse.pdf

⁷ <https://uttlesford.moderngov.co.uk/ieListDocuments.aspx?CId=140&MIId=4163>

Impact

11.

Communication/ Consultation	Consultation took place with licensed trade and other relevant stakeholders for an 8 week period. Local press, social media, website, meetings and invitation for direct comment were used as appropriate.
Community Safety	The authority has a duty only to licence drivers and operators who are considered to be fit and proper.
Equalities	The Council ensures that it treats all individuals and organisations that are renewing or making new applications for licences with equal respect both during the licensing approval / renewal process and in such instances where enforcement action becomes necessary.
Health and Safety	No impact on employee health and safety
Human Rights/ Legal Implications	<p>Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:</p> <p>Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest.</p> <p>Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.</p> <p>2. The Local Government (Miscellaneous Provisions) Act 1976, allows a Local Authority to determine the suitability of an applicant for the grant of taxi and private hire vehicle Licenses and to request such information as it considers reasonably necessary from the applicant in order to determine if a licence should be granted/revoked.</p>
Sustainability	No issues arising
Ward-specific impacts	All
Workforce/ Workplace	No issues arising

Situation

12. Uttlesford District Council, as an authority that issues hackney carriage and private hire drivers licences, can set its own criteria to ensure that applicants are 'fit and proper' to hold a licence. The overriding factor is that of the protection and wellbeing of the public using Hackney Carriage and Private Hire Services.
13. Draft proposals were approved for consultation on 27th November 2018 and an 8 week public consultation was commenced and closed at midnight on 30th January 2019. During the consultation period two meetings were held with ULODA to allow the proposals to be discussed before they formally submitted a consultation response.
14. During the consultation 10 responses were received.
15. Each response is summarised below with comment confirming if officers considered amendments to the proposals are appropriate as a result. Each appendix contains the consultee's response and the subsequent officer response.
16. Response 1 (Appendix 'A')
17. This response from a UDC licensed private hire operator objected to every point of the proposals and made a number of references to Uber. The respondent finished the response by stating that he would move his operation to another area if the proposals were to be implemented.
18. The officer response addressed the comments regarding Uber although they were not directly relevant to the consultation. The reasons for the proposals were put forward and it was explained that it is not UDC's intention to force any existing driver or operator out of business. The response went further and explained that other areas having lower standards and costs are not valid reasons for UDC to not put measures in place to ensure public safety and the highest standards.
19. The respondent was asked if he would like to suggest any amendments to the proposals so that might mitigate the concerns raised so that they could be considered.
20. Response 2 (Appendix 'B')
21. This comprehensive response from a licensed driver and hackney carriage proprietor addressed ten separate points.
 - 1) The first point addressed a number of separate issues including how the consultation should have been conducted and issues around enforcement which do not form part of the current proposals.
 - 2) In the second point the respondent expresses support for the proposal to introduce training and assessments for new applicants.

- 3) The third point questions the need for the introduction of an update course for existing licence holders.
 - 4) Point four supports the introduction of a suitability policy and states that it is long overdue as Uttlesford has been open to anyone to obtain a cheap licence during the “compensation years”.
 - 5) Point five appears to object to the introduction of a driving proficiency test. The respondent’s suggestion that the test should only be imposed on existing drivers if their driving proficiency is brought into question actually reflects the proposal that was made.
 - 6) Point six objects to the proposed age and emissions policy as it would impose a financial burden on the trade.
 - 7) Point seven states that amendments to conditions and standards should be done in consultation with the trade.
 - 8) Point eight suggests that early engagement with the trade should have been undertaken before the 8 week consultation commenced.
 - 9) Point nine suggests that the proposals are “window dressing to justify the trade being burdened with the high cost”.
 - 10) Point ten states that many of the documents referenced in the report need urgently updating.
22. The officer response dealt with all the points made and further explained the reasons behind the proposals. It also clarified the point regarding the driving proficiency test and explained that the proposed Vehicle Age & Emissions policy had been amended following consultation with the trade and this should lessen the potential financial impact on the trade.
23. The respondent’s final point is endorsed by officers as much of the guidance and legislation relating to taxis urgently needs updating. Since the receipt of this response the Government have issued their response to the taxi task and finish group and the DfT have started a consultation on new draft Guidance.
24. Response 3 (Appendix ‘C’)
25. This response, received from a UDC licensed private hire operator, stated that it strongly disagreed with the actions being taken with regard to the proposals. Reference is made to the need to enforce the current rules.
26. The submission suggests that if the proposals go ahead then a percentage of the licensed trade in Uttlesford would disappear and that as well as deterring new driver’s the proposals would burden existing drivers.
27. The officer response explains that the actual impact on the trade is likely to be less than the perceived impact, particularly in relation to existing drivers, and that this point has been considered when drafting the proposals.
28. The need to review policies before complaints are received, at which point changes would be too late to protect those affected, is explained. Clarity regarding the changes to the differentiation between the standards for school vehicles versus vehicles doing other private hire work is given.

29. Response 4 (Appendix 'D')

30. The fourth response was received from a National Leader of Education for children with special education needs and disabilities. The response was received both directly from the respondent and forwarded by an UDC licensed private hire operator.
31. The respondent's concerns were with regard to the impact of the proposals on school transport for children with special education needs and/or disabilities. The respondent raised questions regarding the type of disability training that would be provided and if it would include the needs of passengers with cognition difficulties.
32. The respondent detailed seven points that he wished the authority to give further consideration.
33. In the officer response an attempt was made to reassure the respondent that both visible and non-visible (cognition) disabilities would be covered as part of the disability awareness training.
34. The response went into considerable detail regarding the differing standards of training offered both by education authorities and operators themselves. This included excerpts from a consultation response received from the Integrated Passenger Transport Unit at Essex County Council supporting the new training and the belief that it would improve standards.
35. Each of the points raised by the respondent received further consideration as detailed in the response.

36. Response 5 (Appendix 'E')

37. The fifth response to the consultation was submitted by the Uttlesford Licensed Operators & Drivers Association (ULODA). Before the submission of this response two meetings had been held between officers and ULODA so that the proposals could be discussed in detail.
38. The detailed response from ULODA extended to 5 pages and covered a number of points in relation to the wording of the report, the references to bench marking and the details of the actual proposals.
39. The response brought up the matter of whether UDC would agree to issue limited 'school contracts only' driver and vehicle licences which had not formed part of the proposals. Much of the discussion with the trade prior to the submission of ULODA's response was in relation to this point. The trade requested UDC to consider this option and having given it due consideration the authority decided that it would not issue such licences for the reasons given in the responses.

40. The officer response sought to address each point in turn and referenced amendments to the following proposals which would be made as a result of consideration of all the responses:
- 1) Removal of the requirement for an applicant for a drivers licence to be at least 21 years of age;
 - 2) Removal of the age criteria from the Vehicle Age & Emission policy;
 - 3) Removal of the minimum engine power output figure from the vehicle standards;
 - 4) The adding of E7 vehicles to the types of vehicle that would ordinarily be licensed.
41. The response recognised ULODA's commitment to best practice in education and training and welcomed the trade's engagement, both before and during the consultation, which has helped to shape the final proposals before the Licensing & Environmental Health Committee.
42. Response 6 (Appendix 'F')
43. This response consisted of an email from Roland Pelly (Pellys Transport & Regulatory Law) forwarded by a UDC licensed private hire operator. The respondent had sought Mr Pelly's opinion on the proposals being consulted upon but then additionally submitted a second separate response.
44. The issues raised in this response included a suggestion of delaying any action until the Government's response to the Task and Finish Group report on Taxi and Private Hire Vehicle Licensing was published, the issuing of a 'restricted' private hire licence, the proposal for a minimum age limit for drivers licence applicants and concerns over the tendering process for the training provider.
45. The officer response dealt with the reasons that UDC had decided that a delay would be inappropriate and referenced the recently published Government response to the Task and Finish Group report.
46. For openness the matter of 'restricted' licences was addressed regardless of the fact that this had not formed part of the consultation.
47. Officers appreciated the concern shown for the legality of any decision regarding a supplier for the training courses, if ultimately approved. Confirmation was given that the concerns were unfounded and that UDC would comply with any legal requirements going forward.
48. It was confirmed that the proposal to implement a minimum age for drivers licence applicants had been removed.
49. The respondent's second submission also proposed that the action being taken by UDC should be delayed. It referenced the need for the Government to update its Best Practice Guidance.

50. The respondent stated that the proposals will be grossly unfair to small one man operations and that UDC had made a huge overestimation of the capacity of the larger operators. The proposals are referred to as barriers to recruitment and detrimental to retention risking the viability of Uttlesford Operator's.
51. The perceived impact on the users of taxis in Uttlesford and the factors affecting the general trade are examined. Finally the respondent asks that the Committee reviews the proposals with greater caution than perhaps they did before.
52. The officer response starts by dealing with the request to delay action and references that both the Governments Response to the Task and Finish Group Report and the draft revised DfT guidance have now been published and the proposal had been reviewed in light of this.
53. Although separate to the proposals in the consultation the comments raised about increased fees were addressed for clarity.
54. Each of the matters detailed by the respondent were addressed in the response and he was offered assurance that the members of the Licensing & Environmental Health Committee would see all the responses and give them careful consideration.
55. Response 7 (Appendix 'G')
56. The respondent, a UDC private hire operator's licence holder, started by saying that after careful consideration and having read all the proposals that he agrees with a lot especially the training for new drivers.
57. The response raises concerns about the increase costs to the trade who are already stretched. The respondent specifically references the proposed vehicle age & emission policy and the impact that may have on the trade due to the cost of newer vehicles.
58. The point is made that what may work in the city often does not work in rural areas.
59. The officer response thanks the respondent for his support and references changes that have been made to the proposed vehicle age and emissions policy in light of the consultation responses. Assurance is also given that in formulating the proposals the particular circumstances within Uttlesford had been taken into consideration.
60. Response 8 (Appendix 'H')
61. The eighth response was received from Integrated Passenger Transport Unit at Essex County Council. They stated that comments had been made to them regarding the possible impact on driver recruitment due to the cost of the

proposed training but in response they felt that the training would drive an improvement in standards.

62. In addition comments were made that that the suggested new training is a really positive step forward as it includes CSE and safeguarding. The suitability guidance was welcomed as they considered it provides some clear standards related to how to assess offences.
63. The response identified an issue around drivers failing to report if they are the subject of any investigation or where concerns about their private life arise which may impact on their suitability. There is reference to a number of cases where drivers have failed to notify of a current investigation which brings the honesty and integrity of those individuals into question.
64. Support was given to the emissions policy as Essex County Council is also making efforts to reduce vehicle emissions countywide.
65. The final comment was that it was felt that the taxi policy review is suggesting a very positive way forward.
66. The officer response thanked the Integrated Passenger Transport Unit for its support and shared the link for the consultation on the DfT's draft statutory guidance so that they could respond to the consultation if they wished.
67. Response 9 (Appendix 'I')
68. Response nine was submitted by a UDC licensed private hire operator and consisted of a letter from James Button of James Button & Co., solicitors. This submission dealt with the matter of where a private hire operator could be licensed and whether UDC should issue 'restricted' school contract only private hire licences.
69. Neither of these matters form part of the proposed changes in the consultation but had arisen during discussions with the trade and the respondent had sought Mr Button's opinion.
70. As the first point of the response was not in dispute the officer response addressed the matter of restricted licences. The reasons why the authority had decided, after careful consideration and legal advice, not to issue a 'schools only' restricted licence were explained. Leading Counsel has confirmed that the policy reasons for the decision are sound and would be upheld if challenged.
71. It is agreed that UDC do issue a restricted licence for mechanics to allow them to lawfully carry out road tests of licensed vehicles. The difference between this licence and a 'schools only' restricted licence are clearly explained.
72. Response 10 (Appendix 'J')

73. The tenth response received was a further letter from James Button, this time examining the proposals, forwarded by the same private hire operator as response 9.

74. This 5 page response dealt with the content of the report put before the Licensing & Environmental Health Committee on 27th November 2018 and the proposals contained within it.

75. Many of the observations within the letter regarded the wording of the report rather than directly commenting on the proposals. The officer response sought to answer every point and offer clarification where necessary.

76. Where a point raised was considered valid this was acknowledged in the response and any amendments suggested to the draft proposals were included.

77. Referenced in the response were the following amendments to the proposals:

- 1) Suitability policy to be abridged to start from paragraph 4.19 of the original draft;
- 2) Age and Emissions policy amended by removing the age criteria;
- 3) E7 vehicles added to the list of vehicles the authority will licence;
- 4) For clarity the wording in relation to left hand drive vehicles to be amended;
- 5) Removal of condition 11 and 12 from the proposed Operator conditions;
- 6) For clarity the wording of parts of condition 2 of the proposed operator conditions to be amended;
- 7) Reference to 'employees' in the proposed operators conditions changed to 'all persons';
- 8) The period of time an operator has to produce records when requested extended to 24 hours;
- 9) Reference to 'shorts' removed from condition 2 of the proposed driver conditions;
- 10) For clarity the wording of condition 21 of the proposed drive conditions to be amended;

78. Implementing changes to licensing policy and requirements

79. When considering implementation dates for all the proposals UDC has considered paragraph 2.29 of the DfT's Draft Statutory Guidance for Licensing Authorities, Taxi and Private Hire Vehicle Licensing: Protecting users.

80. Paragraph 2.29 states:

It is important to remember that 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.

81. A full copy of the DfT's Draft Statutory Guidance for Licensing Authorities can be found at Appendix 'K'.

82. New driver training and testing

83. Having considered all of the responses received during the consultation period officers are not proposing any amendments to the proposal to introduce training testing for all new applicants for driver's licences.

84. The comments from some sections of the trade regarding the possible impact on the availability of new drivers are balanced out by other sections of the trade who responded welcoming the change. Similarly the new training was welcome by Integrated Passenger Transport Unit at Essex County Council.

85. Members are asked to endorse the proposal to implement the driver training and testing as proposed in the report put before them on the 27th November 2018 and summarised at Appendix 'L'.

86. If the proposal is subsequently approved by Council the implementation will take place within 6 months of that decision to allow officers to contract a supplier, finalise the content and book suitable venues.

87. Update course for existing licensed drivers

88. Having considered all of the responses received during the consultation period officers are not proposing any amendments to the proposal to introduce an update course for existing licensed drivers at renewal.

89. The objections to the course were regarding its cost and content. Officer's believe that the approximate financial or time cost to a driver, which is likely to be less than £20.00 per year, when divided over the life of a licence, and one day in three years, does not outweigh the benefits to public safety. The course content would be bespoke to Uttlesford and reviewed regularly for its relevance.

90. Members are asked to endorse the proposal to implement the update course as proposed in the report put before them on the 27th November 2018. Such training to be completed by licensed drivers before the renewal of their driver's licence is granted and the course content to be initially made up of elements of the New Driver training detailed in Appendix 'K'.

91. The implementation will take place within 12 months of the decision being approved by Council to allow officers to obtain a supplier, finalise the content and book suitable venues.

92. Suitability policy for the Hackney Carriage and Private Hire Trade

93. Following consideration of all the consultation responses the draft Suitability policy has been amended in line with the suggestion of James Button in response 10. This has resulted in a shorter and more succinct document which will allow all stakeholders to understand how UDC will assess fitness and propriety to hold a licence.

94. Since the consultation commenced the DfT have opened a consultation on new draft guidance and this includes at Annex A is guidance on how previous convictions should be viewed. The proposed draft suitability policy reflects the wording in the guidance which the guidance states should be the minimum standards for the grant of a new or renewed licence.

95. Members are asked to endorse the proposal to implement the Suitability policy as amended at Appendix 'M'.

96. It's proposed that the Suitability policy would take effect from 1st May 2019 if approved by Council on 2nd April 2019.

97. Driving Proficiency.

98. Following consideration of all the consultation responses officers are not suggesting any amendments to the proposal to implement a driving proficiency test for new applicants and for those existing drivers whose driving ability has been brought into question. In addition new applicants to be required to have held a full UK drivers licence (or equivalent) for a minimum of three years at the time of application.

99. Members are asked to endorse the proposal to implement the driving proficiency tests as detailed at Appendix 'N'.

100. If Members are minded not to require existing drivers to undertake a driving proficiency test after acquiring 9 penalty points on their DVLA licence then the Suitability Policy will need to be amended to reflect this and that amendment should be endorsed by Members.

101. Requiring applicants to take this higher standard of driving test will provide the authority more assurance that the individuals they licence are fit to drive the public rather than relying on a licence that may have been obtained decades before or in another country.

102. The proposed implementation date for the driving proficiency test is 1st June 2019 to allow the authority to approve suitable providers with enough capacity to service the likely demand.

103. Vehicle Emissions Policy

104. Following consideration of all the consultation responses officers suggest the following amendments to the originally proposed Vehicle Age & Emissions policy:
- 1) Removal of the age criteria leaving only the emissions criteria; and
 - 2) The implementation dates to be moved back by one year.
105. A number of the consultation responses referenced the potential financial impact on the trade of this policy. The original report addressed these concerns at an early stage but further consideration has been given to the submissions.
106. Officers feel that the two suggested amendments above further mitigate any potential impact on the trade although, as with all policies, the impact on certain individuals can never be mitigated completely.
107. Members are asked to endorse the amended Vehicle Emissions policy detailed at Appendix 'O'. Implementation dates to be as detailed in the policy.
108. Licensing standards for Hackney Carriage and Private Hire vehicles
109. Following consideration of all the consultation responses officers suggest the following amendments to the originally proposed vehicle standards:
- 1) The addition of E7 vehicles to the types of vehicles that will be licensed;
 - 2) The removal of the minimum engine power output figure;
 - 3) The addition of further qualification for the reasons for not licensing left hand drive vehicles.
110. Members are asked to endorse the amended vehicle standards detailed at Appendix 'P'. Implementation date to be 1st May 2019.
111. Conditions for vehicle licences
112. Following consideration of all the consultation responses officers are not suggesting any amendments to the originally proposed vehicle conditions.
113. Members are asked to endorse the amended vehicle licence conditions detailed at Appendix 'Q'. Implementation date to be 1st May 2019.
114. Conditions for drivers licences
115. Following consideration of all the consultation responses officers suggest the following amendments to the originally proposed driver conditions:
- 1) Removal of the reference to 'shorts' from the list of clothing deemed unacceptable;
 - 2) Rewording of condition 21 to reflect that drivers should take the shortest route to a given destination unless otherwise agreed by the customer.

116. Members are asked to endorse the amended driver licence conditions detailed at Appendix 'R'. Implementation date to be 1st May 2019.

117. Conditions for operator licences

118. Following consideration of all the consultation responses officers suggest the following amendments to the originally proposed private hire operator conditions:

- 1) Revised wording of condition 2.c to make it clear that this is not an exhaustive list of how bookings can be made;
- 2) Revised wording to condition 3 changing the period in which records must be produced from 12 hours to 24 hours;
- 3) Revised wording to condition 10. The word 'employees' replaced by the term 'all persons'.
- 4) Removal of conditions 11 & 12, requiring operators to provide information quarterly and the amendments of the original conditions 10 & 13 (the decision regarding the amendment of conditions 10 & 13 was taken following a meeting with the trade representatives on 01/03/2018 so had not been referenced in responses given before that date).

119. Members are asked to endorse the amended private hire operator's licence conditions detailed at Appendix 'S'. Implementation date to be 1st May 2019.

Risk Analysis

120.

Risk	Likelihood	Impact	Mitigating actions
3 An unsuitable person may be granted a driver, vehicle or operator licence.	The revision to the policies and procedures will minimise the likelihood of this occurrence by ensuring an effective and robust licensing regime adequately supported by appropriate enforcement.	Amending UDC's taxi licensing policies will promote public safety which is the core purpose of this licensing regime	Members endorse the changes and updates to current UDC policy and procedures.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

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I can only assume that UDC are determined to reduce and force out of business as many taxi operators and drivers as possible. Are you sponsored by Uber?

You are surely aware of the pressures that the taxi industry is under from the infestation of Uber cars in the country. An operation that is not bound by any regulation, tests or standards levels or even a simple DBS check, yet are allowed to operate prolifically.

By introducing more fees, more training, more tests, more licensing requirements, knowledge tests, stricter vehicle requirements, you are making the Uttlesford taxi trade untenable. Perhaps that is your aim, as part of a bigger vision of “Uberizing” the taxi trade.

Whatever your motivation, I strongly object to every point on your agenda. If it proceeds, I will move my operation to a different licensing district.

RESPONSE:

It is not UDC’s intention to force any existing driver or operator out of business. UDC’s primary concern in relation to Hackney Carriage and Private Hire Licensing is the safety of the public which includes licence holders, passengers and the public at large. The proposed changes, if implemented, will all have a positive impact on public safety and will help UDC to ensure that it is fulfilling its responsibility diligently.

The main policy changes are aimed at those coming into the trade in order to raise the standards of safety and service offered to the public.

The issue of Uber and other App based operators is often contentious. As you will no doubt be aware it has been decided that Uber are fit and proper to hold an operator’s licence and that the model under which they operate is legal. This leaves the authority in a position that it cannot take action against Uber as it would not be in the public interest. If there is a successful appeal against the court decision then this position may change.

Every driver that operates using the Uber App has been licensed as a driver by an authority within the UK. Without national minimum standards the checks done at the time of granting a licence differ widely but nationally every driver has a minimum of an enhanced criminal record check and a medical. They are bound by regulation but as some of the legislation predates the internal combustion engine it does not take into account advances in technology and is therefore open to interpretation.

The fact that there are lower standards and costs elsewhere in the UK is not a reason for UDC to not aspire to put measures in place to help ensure public safety and the highest standards.

Your response will be put before the Licensing & Environmental Health Committee when they consider the proposals but it would be helpful for you to explain in more detail why you believe the proposals will force out operators or drivers. Similarly if you wish to suggest any amendments to the proposals then UDC would welcome those comments before the end of the consultation at midnight on 30th January 2019.

The proposals have been suggested to improve public safety and UDC believe they will achieve this however if you would like to discuss any of the above points in more detail then I am happy to arrange that.

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Review of Uttlesford District Council's Taxi Licensing Policies.

I acknowledge the opportunity to provide comment on the above.

At this time of writing I must mention that I have noted via social media that not all of the UDC licensed HCV/PHV community have received this information and thus will not be in a position to provide comment/feedback.

1.To inform the Committee of the proposed changes to UDC Taxi Licensing Policies and seek endorsement of draft documents for consultation.

Comment

The UDC HCV/PHV community represent members of both trade and members of the public that will be directly affected by these proposals, furthermore I feel it very important to emphasise that we the trade (whom you legislate over) are also your customers and as such I feel should have been an inclusive part of the discussion from commencement of producing the proposals, as we are best placed to know what is needed and what is not, where unwarranted cost will be incurred (as will be expected to fund much of this) and where currently the short falls within the current modus operandi of licensing enforcement need to be addressed , and the viewpoint of members of the travelling public of how effective enforcement is (I am not aware of any survey conducted on this).

2. For the Committee to note and comment upon the proposal for the introduction of training and testing for new applicants for both Private Hire and Combined (Private Hire and Hackney Carriage) drivers' licences.

Comment

I applaud the recommendation of the proposal to evaluate the understanding of the English language (both written and verbal) this is a common complaint I have heard from customers from their experience of using UBER whom operate within Uttlesford and beyond.

It is also good that basic geographic awareness will be evaluated as again this has been a common complaint from customers when using some services.

3. For the Committee to note and comment upon the proposal for the introduction of an Update Course for existing licensed drivers at renewal.

Comment

On what grounds is this proposed? have you verbatim feedback from the travelling public to underwrite the need for this? at face value this is an extra level of bureaucracy and cost that both UDC and the trade should not be burdened with, and I suspect current staffing levels cannot handle.

4. For the Committee to note and comment upon the proposal for the introduction of a Suitability Policy for applicants in the Hackney Carriage and Private Hire Trade.

Comment

I feel this has long been overdue as Uttlesford has been open to "anyone" to obtain "cheap" licences, and during the "compensation years" was totally abused by fortune hunters seeking to take advantage of UDC's improper accounting.

5. For the Committee to note and comment upon the proposal for the introduction of a driving proficiency test for all new applicants for both Private Hire and Combined (Private Hire and Hackney Carriage) drivers' licences.

Totally inappropriate and another level of bureaucracy and unnecessary cost should only be applied for those whom incur x penalty notices or other infringement of the laws covering driving on UK roads. Licenced drivers who have been driving for years without notified infringement is evidence enough that they are wholly capable.

Comment

6. For the Committee to note and comment upon the proposal for the introduction of a new vehicle age & emissions policy which will apply to all licensed vehicles.

Totally unnecessary and will impose further financial burden on an already hard-pressed trade. Modern vehicles are built to last and the periodic MOT and bi-annual Council testing is adequate to ensure standards are maintained, which can be further supported by ad-hoc periodic inspection by enforcement as should be the case currently.

Comment

7 For the Committee to note and comment upon the proposal for revised driver, vehicle and operator licence conditions to be introduced.

Comment

This must be something that undertaken with consultation with the trade, to prevent further legislation that is unenforceable.

8. That the above draft documents be endorsed for an 8-week consultation with the trade and public.

Comment

This is akin to bolting the door after the horse has escaped, and both trade and the public should have been engaged with in the first instance.

Financial Implications

9. There are no financial implications as the implementation and operation of the taxi licensing regime operates on a cost recovery basis.

Comment

This is totally unacceptable and represents an imposed diktat on the trade to pay for something it doesn't need or have been party to requesting. These proposals read like window dressing to justify the trade to be burdened with the high cost of the employment of further staff within licensing dept. We need a complete review in consultation with the trade to produce an HCV/PHV rule book fit for the 21st century which puts customers at the forefront without penury on the trade.

10. Background Papers 10. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report. • Taxi and Private Hire Licensing: Best Practice Guidance from the Department for Transport (March 2010) • Law Commission in its report on Taxi and Private Hire Services • Local Government (Miscellaneous Provisions) Act 1976 • Institute of Licensing, Guidance on determining the suitability of applicants and licensees in the hackney and private hire trade.

Comment

Much of this is I feel outdated and has needed revision for decades. Reading the monthly PHM periodical would have facilitated being kept updated on the sea change that is ongoing within the licensed trade.

RESPONSE:

Thank you for your comprehensive response to the proposals. I will address your points in the order they are raised in your letter.

The consultation on the proposals has been sent in the identical way that UDC has communicated with its licensed trade in the past. This includes directly notifying the trade, informing ULODA, a recent newsletter and inclusion on the taxi pages of the website. UDC believes that this combined with word of mouth amongst the trade and an 8 week consultation period is adequate to demonstrate that all parties had the ability to comment.

Point 1

The proposals are part of a programme of works that started back in September 2017. Throughout the process we have spoken with members of the trade and ULODA as the recognised trade body. Suggestions have been taken on board throughout the process and they have helped shape the proposals but ultimately UDC is the regulator of the trade and our primary responsibility is public safety. As such we have to accept that there will be times when the views of UDC and the licensed trade do not agree.

The 8 week consultation that you have responded to is the opportunity for anyone to make their views known and for those views to be publicly considered by the members of the Licensing & Environmental Health Committee. Your letter implies that the result has been predetermined and this could not be further from the truth. All responses will be considered and discussions with trade representatives have continued through the consultation. The authority welcomes all opinions and suggestions relating to the proposals.

If you have some observations or suggestions regarding enforcement then please let us have those even though they may not effect this particular consultation.

Point 2

Thank you for your positive comments regarding the proposed driver training course. We believe that such training and testing is necessary not only to help ensure public safety but to improve the service that people receive from licensed vehicles.

Point 3

The Update Course is proposed for a number of reasons which were contained in the original report put before committee. Many professions require continuous professional development and this principal applies to the licensed trade. Things move on rapidly, a few years ago no one had heard of CSE let alone provided training on how to spot it, safeguarding in its current form was also unheard of. These are all things that a professional driver who deals with the public should know in order to help protect the public. The logistics of delivering what has been proposed has been carefully

considered and we are confident that we can deliver this course and the other proposed training and testing.

Point 4

Thank you for your support of the introduction of a New Suitability Policy.

Point 5

To clarify the proposal is that the driving proficiency test will be mandated only for new driver applications. As you suggest, an existing licence holders will only be required to take the test if their ability to drive safely is in doubt or they have reached the set threshold for points on their DVLA licence.

The test will require a higher mark to pass than a standard driving test and this is at a level that can realistically be expected of a professional driver. An absence of notified infringements is not evidence of someone's driving ability it is simply an indication rather than confirmation. For example a person could hold a driver's licence but never owned or driven a car since the passed their test or the person may be a habitual speeder but simply never have been caught. An applicant needs to positively demonstrate that they are safe to drive a licensed vehicle, to demonstrate that they are fit and proper to hold a licence, rather than the authority simply relying on the fact the applicant has never been caught driving badly.

Point 6

The proposed vehicle age & emissions policy should not be considered a blanket policy and in fact it would be illegal if it was that. The authority will consider any application to licence a vehicle whether it complies with the policy or not. Much of the fleet of cars licensed with Uttlesford already comply with the new standards and for those that don't there are other options such as LGP conversions. These may seem initially expensive but the higher the mileage a vehicle is doing the more quickly the cost of the outlay is recouped through savings in fuel costs. Following consultation with the trade it has been decided to amend the vehicle policy to remove the age element and to extend the period before the emissions elements come into place. This will give the existing trade longer to prepare for the changes.

It is an accepted fact that newer vehicles are generally safer than older vehicles and equally they generally produce less pollution.

Point 7

The consultation with the trade is open for 8 weeks and we would welcome any suggestions you have in relation to the proposed conditions and standards.

Point 8

As I said earlier in this response the outcome of the consultation has in no way been predetermined. ULODA and other trade representatives have been involved in discussions regarding the proposals since early 2018. This 8 week public and trade consultation is your opportunity to have your opinions heard and considered. UDC has put forward a number of proposals to promote public safety and has

then asked for views on those proposals. All responses will be responded to and publicly considered by the Licensing & Environmental Health Committee.

Point 9

As the regulator UDC has to ensure public safety in the way that it sees fit. The legislation allows the majority of the cost of the licensing regime to be recouped through licence fees. As you will be aware from you earlier reference to the “compensation years” the authority is not allowed to set fees that would generate a profit and can recoup any deficit by raising fees in following years.

These proposals are the first steps towards a complete review of taxi licensing at UDC which will result in a comprehensive handbook and clear guidelines for the trade, provide a timely and cost effective service, allow customers to know what standards to expect and how to report issues and promote public safety. We will continue to engage with the trade and consult openly where appropriate.

Point 10

We agree that much of the legislation and guidance in relation to taxi licensing is outdated and urgently in need of revision. This is something that local authorities and the Local Government Association have been trying to push with central Government for years. As a regulator we have to work within the legislation and guidance that is in place.

If you have any specific suggestions or amendments to the proposals that are currently being consulted upon then please send them to us before midnight on the 30th January 2019. We would also like to hear any proposals you may have regarding any other part of the UDC taxi licensing regime so that they can be considered as part of future changes.

I would be happy to arrange to discuss any of the above points with you if that is something you would like?

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After reading your latest proposals for next year bringing in new rules and regulations, we strongly disagree to your actions. Instead you should try enforcing the rules you have already applied. In the early days of licensing, officers made regular checks on vehicles and drivers on the streets doing random checks, we can't remember the last time this happened.

We feel that if you go ahead with your plans a certain percentage of drivers and vehicles will disappear leaving a shortage of supply to members of the public within Saffron Walden who already struggle to get transport.

The Private Hire trade is working long hours for little reward and this added burden will drive away experienced drivers as well as deterring new drivers from applying. We have also been advised that you are going to limit drivers hours another burden should this go ahead and the expense that this will create.

What complaints have you had from the public to warrant these new proposals. The town is always growing in size and you should be trying to help to increase the Private Hire trade to supply more drivers and vehicles to meet the demand.

We also notice that you are going to reduce the age limit on Private Hire and Hackney vehicles which transport the members of the public to 10 years, but still hold onto the 20 year limit to normal unmodified vehicles which transport vulnerable school children.

If you do go ahead are you prepared to supply and fund drivers and vehicles, the losers in this will be the elderly and the disabled who desperately need transport to get around.

RESPONSE:

Thank you for your comments in regards to the proposed changes to UDC taxi policies.

We appreciate your point regarding the matter of enforcement. Due to the disproportionately high number of vehicles and drivers licensed with UDC providing the type of proactive enforcement you describe is currently difficult. You will be aware that not all of the costs of enforcement are recoverable through licence fees and this again causes further issues and we have to be more reactive by dealing with complaints, drivers getting convictions, failure to produce documents and a high volume of new applications. UDC hopes to redress the balance between proactive and reactive enforcement work in the future and the proposed policy changes are the first step in this direction. By ensuring high standards and compliance amongst new entrants to the trade it will allow enforcement to concentrate on dealing with the small percentage of cases that require action.

UDC licences a large number of private hire vehicles and drivers and it is possible that some may choose not to continue to be licensed. However it is not envisaged that this will have the impact on the travelling public to which you allude. At least 80% of the licensed vehicles already meet the emissions standards which will not come into effect for vehicle renewals until 2021 giving vehicle proprietors time to plan for the change. With the age part of the policy being removed following discussions with the trade this will allow people that will need a new vehicle to purchase a used car rather than having to go to the expense of purchasing a brand new car. Similarly the cost of an LPG conversion to meet the proposed emissions standards would be recouped more quickly the higher the mileage a vehicle does and vehicle proprietors may choose this as another option.

It is very unfortunate if parts of the trade are working long hours for little reward but this is more a matter for market forces rather than something that can be addressed by policy. The primary

function of the taxi licensing regime is to ensure the safety of the public and every proposal has this at its core.

UDC has made no proposal for a mandatory limitation to drivers working hours as this would require a change in the primary legislation. However, UDC would like to remind drivers of the risks of working overly long hours and not taking regular breaks.

Changes in policy are driven by the duty imposed on this authority to ensure public safety. If an authority simply waited for complaints to drive change then they are likely to end up in a similar situation as other authorities in the country such as Rotherham. Reacting to issues rather than proactively driving positive change can have drastic consequences for all involved.

We appreciate that the population within the District is growing but again the number of vehicles that supply that increased need is largely a matter for market forces. This authority cannot have standards that it believes do not ensure public safety in an attempt to ensure the ready availability of private hire vehicles.

With regards to the age of vehicles the proposal is for the differentiation between schools vehicles and other PHV vehicles to be removed. The authority agrees with your point that the standards for vehicles carrying school children, some of which are vulnerable, should be as high as any other type of vehicle.

The majority of the proposals will apply to new vehicles and drivers entering the trade with some increase in standards for currently licensed drivers and vehicles. It is not our intention to drive away existing drivers or the right type of new applicant but to ensure that we carry out due diligence in our duty to protect public safety.

25th January 2019

Re. Review of Uttlesford District Council's Taxi Licensing Policies

Dear Uttlesford District Council,

I write to you with regard to the consultation currently in place on the District Council's proposals regarding taxi licensing. I write in my role as a National Leader of Education for children with special educational needs and disabilities.

It is very pleasing to see that the council is making a commitment to increase awareness regarding disability and the implementation of the Equality Act 2010.

My specific points relate to whether the council has conducted an impact assessment of the proposals in regard to school transport for children with special educational needs and/or disabilities (SEND).

As a former Headteacher of a special school in Essex I have seen the benefit of the implementation of single contractor service to schools. This was a key moment in securing a service that gave both families and schools confidence and the single contractor to liaise with where such issues as training and awareness could be more fully addressed. The key difference between the disability training I see envisaged as part of the proposals is that it does not mention those with cognition difficulties as part of their disability. This group of people represent a particularly vulnerable group and there are significant safeguarding issues to consider.

In Appendix A there is mention of the group with 'learning differences' and those who are 'autistic'. It is positive to see this.

Can I ask that further consideration be given to the following points:

- The training which drivers will receive for this group of people; some existing contractors as well as Essex CC offer additional bespoke training in this area which could be beneficial for all.
- Many of the personnel who take part in school contracts are not taxi drivers or private hire drivers; they are often people who want to make a difference to our community and particularly for those with disabilities – has an impact assessment been conducted on the implications of the proposals for these people and the clients they serve?
- Essex CC passenger assistance training is very closely aligned to the sort of training drivers should receive for a person with a disability - this has helped to ensure that children arrived at school in the best condition to learn and at their home in a happy and safe condition.

- Some drivers may have to engage in training which is not specific to their roles and not entirely relevant – any reduction in the quality of bespoke training for the group of people I am highlighting would be concerning.
- The school driver is usually an employed driver paid to transport someone in a wheel chair or other disability and they know they are going to be taking that type of person on from the day they start their contract for a minimum of a year; this is so important to safety and security for that disabled person.
- Can operators who currently do their own training be accepted and incorporated as influencers into the programme proposed by the District Council so that their existing expertise is not lost?
- There is always the risk of shortfall of qualified drivers in the school system – can a further assessment be conducted with current operators to understand any concerns they might have regarding the direct impact of these proposals on children served by school contracts?

I thank you for your consideration of these points.

Yours sincerely,

RESPONSE:

Thank you for your letter and we appreciate you acknowledging our efforts to raise awareness of wide issues of disability of all types. I will try to explain this point by responding to the questions you raise.

Appendix A of the report is an indicative list of what could be included in any training that is provided. This cannot be finalised until the authority has agreed to implement training or not. The courses that are currently provided to other authorities do include both the visible and non-visible (cognition) disabilities to varying degrees but the final content of the course will be tailored to the requirements of UDC and its particular trade as much as possible. What needs to be appreciated is that UDC issues licences to drivers that can carry out any type of either private hire or hackney carriage work so the standards and training provided must cover the broad spectrum and offer the best assurance of safety to all sectors of the public.

Below are answers to your specific points:

- UDC issues driver and vehicle licences that work across many counties and fall under many education authorities. From the research that has been done the standards differ wildly.

Hertfordshire County Council provides its own driver training but we have been informed by the UDC Safeguarding officer that Essex County Council does not provide or require this. In a response from the Integrated Passenger Transport Unit at Essex County Council they have stated that “Comments have been regarding the cost increase for the new training and

concern for the impact that might have on driver recruitment for the local transport operators but it is felt that the training will drive an improvement in standards.”

To avoid duplication we have also contacted all 100+ licensed operators to ask what training they provide as all of these operate school's contracts. Again the responses vary hugely as some require drivers to read their safeguarding policy, some provide customer service training and other provide nothing to their drivers. None of the operator's that responded say that they require driver's to attend any sort of disability awareness training. The largest provider of private hire vehicles licensed by Uttlesford has stated that it shows its new drivers a passenger assistance video from ECC and then test drivers understanding. UDC does not believe that any of the above provides the assurance that there is any sort of consistent standard of training or competency amongst its licensed trade.

It is clear that there are some highly skilled drivers out there operating specialised vehicles and nothing that is being proposed will change that. These drivers will continue to be able to drive the same vehicles and fulfil all of the same contracts. Those entering the trade for the first time will have received comprehensive training and, as commented on by ECC, these drivers will be of a higher standard than previously expected of those entering the trade.

The proposed training will raise standards across the trade, particularly for the vulnerable, and will allow UDC further assurance that its primary obligation of public safety is being fulfilled. There is nothing to stop drivers undertaking additional training if appropriate or where mandated as part of a particular contract and where best practice comes to light it can be incorporated into the UDC training.

- All of the people carrying out school contracts have to be licensed to drive licensed vehicles and undertake contracts for licensed operators. I appreciate that they may not be carrying out other private hire work but the licence that is granted to them allows them to do those other types of work. Therefore UDC must ensure that every driver meets a standard for the type of licence they are issued with. The focus is mainly on the impact on passengers as the taxi licensing regime is not in place to ensure that people have jobs and can earn a living as the regime must ensure public safety. UDC has considered and sort legal advice on the possibility of issuing a 'restricted' drivers licence which would allow individuals to carry out only school contracts. The legality of such a licence is untested in the courts and it is believed that the potential impacts on public safety outweigh the potential benefits to the travelling public.
- We commend any training that is provided and helps to ensure anyone, especially the most vulnerable, arrive at their destination happy and safe. That is the aim of proposal to introduce training for new and existing drivers. The inconsistencies between any training currently provided by different operators or education authorities are covered above.
- UDC would not wish to see any reduction in bespoke training. As highlighted above there is no consistency between what is currently being provided and this is what the UDC course will provide. A private hire driver who is carrying out a school contract could, without

notifying UDC, change to carry out normal private hire work carrying the public rather than just doing a specific school contract. As a result UDC must ensure that the standard of training is adequate that any driver carrying out any operation whilst licensed by the authority is adequate to ensure public safety.

- UDC appreciates your point but drivers can be switched from contract to contract and can even carry out ordinary private hire work without notifying the authority.
- As mentioned above we have enquired with all operators as to the training they provide and have been consulting the operators, trade body and individuals. However, some of those that have stated that they provide training and testing have not provided details of the training or testing regime that's in place so it cannot be taken into consideration. The course will be constantly monitored and as it is bespoke to UDC the content can be amended to include best practice as detailed above.
- UDC has engaged with the trade regarding the possible shortfall of qualified drivers and will continue to do so.

I hope this response helps to address your concerns.

Dear Oliver and Tony

Please find below the response from senior trade representatives. You should also have related responses from Malcolm Reeve, James Button and Roland Pelly, which can be resent if by chance they haven't been received.

**REVIEW OF UDC's TAXI LICENSING POLICIES:
Report to Licensing and Environmental Health Committee, 27 November 2018**

EXTRACTS

Background Papers

10. The Law Commission Report has been kicked into touch by this government. The Institute of Licensing Guidance has NOT been adopted by this government. The most current - and massive - piece of work commissioned by the Minister of State for Transport was completed in October 2018. The NPHTA, of which ULODA and many operators and proprietors are members, was represented on the DfT's Task and Finish group by Donna Short, its Director. As she has so pertinently said this month in mirroring the trade's view:

10.1. Would it not be more sensible for your council to hold off bringing out this rather lengthy policy document until such time as the Minister's response to the Task and Finish report is made known? The DfT has indicated that it could be any time now.

Impact

11. Communication/consultation. The 5 Dec email from the Licensing Team enclosing a brief summary of the proposals was sent to operators and proprietors with the bold request: "Please ensure this message is cascaded to all of your drivers." The NPHTA's Director, Donna Short, makes the following valid point:

11.1. That council of yours should be sending this consultation out DIRECT to every single licence holder in the district, not expecting the operators to pass it round to the drivers. I would refer you back to ... the Sardar v Watford case.

Situation

12. "...the authority currently requires all applicants to pass a medical, have their DVLA licences checked and have an enhanced criminal record check. All drivers are also subject to right to work checks....."

12.1. What evidence is there that the council's existing processes are not fit for purpose?

12.2. What is driving the need stated to see them improved?

12.3. An officer said in a minuted meeting with us "there have been legislative changes with safeguarding etc." What are they, please?

13. "The current UDC policy and application criteria were last revised in April 2016."

13.1. How did the council come to the conclusion that "matters relating to public safety and safeguarding were not being adequately addressed"?

13.2. What evidence of complaints do UDC have about CSE and safeguarding issues, and over what period?

14. ".....no training is offered to, or required of, either new applicants or renewing drivers."

14.1. ULODA is committed to best practice in education and training throughout the trade. Its services are promoted in its marketing statement: UNITING THE TRADE THROUGH EDUCATION, INFORMATION and COMPLIANCE. May we participate in planning and delivering training, please?

14.2. Some of the trade's larger operators have professional and effective training for their drivers - to ensure competence and compliance. How is the council proposing to make use of such established training going forward?

15. New driver training and testing

16. "New applicants attend a full day's training course to include training in customer service, driver safety, relevant legislation, disability awareness, safeguarding and other key information required to be a competent driver."

16.1. What evidence is there that this training has worked elsewhere? In which local authority areas, please?

17. "Applicants for dual/combined driver licences will be subject to additional geographic test of their knowledge of the district as they are available for immediate hire."

17.1. Schools contract drivers and taxi drivers are very different. The proposed training will have a negative effect on school driver applicants. It's difficult enough already to recruit in sufficient numbers. Such applicants do not need to learn different routes or how to give change.

17.2. Shouldn't schools contract drivers be given training specific to their needs e.g. using the passenger assistant model used by larger operators such as 24x7 and accredited/approved by Essex County Council? Additional material can be added as required in co-operation with UDC.

17.3. The trade has suggested in meetings with officers that serious consideration be given to introducing a restricted licence for schools contract drivers using the model adopted by local authorities such as Reading, Gravesham and Medway. Leading solicitors in transport licensing confirm that such a licence is NOT illegal or against the spirit of the legislation as it has been interpreted. Differentiation will be of great help to the trade.

22. "Many other local authorities already require applicants to arrange, at their own cost, training in disability awareness."

22.1. What evidence is there in Essex and counties such as Cambridgeshire, Suffolk and Herts that other LAs require such training?

"The proposal is that Watford Borough Council ... are contracted to supply bespoke training ..."

23.1. Why Watford? Have other training providers, locally or nationally, been considered and evaluated?

23.2. Have UDC done a proper procurement assessment of potential suppliers? Does this accord with commercial contract law?

24. "Watford will provide trainers that have wide experience of licensing and enforcement of taxis. This is considered a key factor ..."

24.1. What evidence is there of the "success of the courses delivered elsewhere"? Has a proper impact assessment been done?

27. "The cost to the applicant of the training would be ... "

27.1. This would be another cost - and another hurdle - which could put people off from applying in the first place or withdraw from the application process.

30. "The training course has proved most successful in other areas where the number of attendees has been capped at 16."

30.1. How has this success been measured? With a suitable impact assessment?

30.1. What evidence is there from trainer feedback?

30.2. What evidence is there from attendee feedback?

33. Update course for existing licensed drivers at renewal

37. "The authority would update the training regularly."

37.1. If UDC "owns" and accredits the training, who will be responsible for updating it, and how often?

37.1. and at whose cost?

38. "... the imposition of the requirement to have completed the update course by the date of renewal is logistically challenging ..."

38.1. The choice of word ("imposition") is noted.

38.2. The option could/should be explored of training events local to licence holders in addition to selected Uttlesford venues.

41. Suitability Policy

43. "Since the initial drafting of a Suitability Policy, the LoL ... issued its Draft Guidance ."

43.1. Having compared and contrasted the two documents in detail, we note that more than 120 of the 140 or so paragraphs are identical. We must challenge how thorough the council's process has been in order to recommend the LoL document almost in its entirety.

43.2. We must ask for a detailed justification of the proposed new sanctions in every individual instance. These seem disproportionately harsh.

43.3. There are three new paragraphs (4.41, 4.42 and 4.43) in the UDC document which list sanctions for licence holders with Motoring Convictions. Why have they been added, and what is the justification for the sanctions?

43.4. Has a compare and contrast exercise been done with other local authorities in Essex, and counties including Cambridgeshire, Suffolk and Herts, on the Suitability Policy? We believe such an analysis will assist in the determination of suitability criteria particularly, in the light of likely LA cluster arrangements and the development of national minimum standards.

48. "It is suggested that decision making under the suitability policy is delegated to officer level."

48.1. Is it intended to replace the current Licensing Panel? If so, it is a laudable objective, although the "informal" interview/words of advice approach to individual licence holders is one we hope will continue in appropriate circumstances. We need further clarification from the council on this, please, along with a clear protocol so that the operator and the individual who is subject to questions about fitness and propriety can easily understand the process. This has been a regular complaint from individuals requiring advice from operators and ULODA.

48.2. Is it intended that there be no visible role for the council's solicitor in the process? It is suggested that he/she be made aware of a meeting and thus be available for consultation on technical/legal issues arising during it.

48.3. We think it appropriate that minutes - and the decision - be recorded as they are currently, particularly in the event of any appeal.

48.3. It is also suggested that in the absence of the Chairman and Lead Licensing Officer, a decision on fitness and propriety should be taken by the Vice Chairman or three accredited committee members and an officer of similar seniority or above, though exceptionally a Licensing or Enforcement Officer may be considered appropriate in consultation with the council's solicitor.

48.4. The individual subject to questions must be given the right to be accompanied or represented as at present at any meeting with the council.

50. Driver Proficiency

52. " passing a driving test equivalent to the now defunct DSA test be a requirement of every new applicant."

52.1. What evidence is there of other LAs in Essex and neighbouring counties using such a driving proficiency test?

52.2. and what are the measures of success?

53. ".... imposition of a driving proficiency test...."

53.1. The use of the word "imposition" is again noted.

53.2. Does the model of other LAs using national and local test providers work well? What is the evidence?

59. " ... most authorities have increased the period that an applicant must have held a driving licence to between 3 - 5 years."

59.1. Most? Have other LAs in Essex, Cambridgeshire, Suffolk and Herts imposed such a requirement?

60. "... applicants must be over the age of 21 "

60.1. The trade considers this unfair, prohibitive and inappropriate. It is NOT a requirement in the similarly regulated environment for PSV drivers. Some of them are sons or daughters of local coach and bus operators who are proud to have personally trained - and accredited - them to take the public wheel as competent drivers from the age of 18. LGMPA sets the minimum experience level for drivers at 12 months.

61. Vehicle Age and Emissions Policy

61.1. The trade delegation believes there is no need for vehicle age to be included as a criterion in the policy. Vehicle emissions and condition are the key requirements. Please note: this reinforces the point made in the meeting with officers on 11 January.

81. Licensing Standards for Hackney Carriages and Private Hire Vehicles

81.1. We are challenging the inclusion of engine size in the proposed policy. The Licensing and Environmental Health Committee removed it when Smart Cars were first licensed by the council.

90. Types of vehicles that will be licensed:

90.1. We would like E7 vehicles to be specified.

91. "Left-hand drive vehicles will not be suitable for licensing on safety grounds...."

91.1. Do other LAs in Essex and neighbouring counties license left-hand drive vehicles?

91.2. We would like to revisit the matter with officers.

96. Conditions for vehicles, drivers and operators licences

101.3) "....Hackney Carriages are not required to use the meter for journeys other than those that start and end in the District."

101.1. What is the justification for this proposal, please?

103. "Many Private Hire vehicles never work within the District ..."

. "Four conditions have been added requiring operators to provide information ... on a quarterly basis...." (103.8)

103.1. These requirements seem to the trade to be disproportionately onerous. Will the council please justify them afresh?

Risk Analysis

107. "Mitigating actions: Members adopt the recommend changes and updates to current UDC policy and procedures."

107.1. In order to meet the stated aspirations of the committee's Chairman to have short documentation, we propose that a member of the trade work in a joint working party with the Licensing Consultant and UDC officers in the delivery of the best outcome for the council and stakeholders.

107.2. In this process we will together identify areas in the current "green book" which have been outside the scope of this review, by order of the Chairman. These include - importantly - CCTV in vehicles, a mysterious omission given its valued contribution to public and driver safety, as highlighted by ULODA's Honorary President during the trade's statements to the committee in 2018.

Many thanks in advance for dealing with these challenges, questions, observations and proposals from trade representatives. We are grateful to you for receiving them in a spirit of mutual co-operation and commitment to the cause of developing communication and proper consultation.

We hope to have the opportunity of further "informal forums" in the coming weeks with officers in the best interests of "task and finish".

Kind regards

**Andy Mahoney, Managing Director, 24x7
Robert Sinnott, Managing Director, ACME Transport
Richard Ellis, Managing Director, Barnston Luxury Travel
Barry Drinkwater, Chairman, ULODA
Doug Perry, Hon President, ULODA**

30 January, 2019

RESPONSE:

Points 10 & 10.1

The taxi industry as a whole has been waiting for new guidance and legislation for a number of years. The Government response to the Task and Finish Group has now been published and the only matter which has really been progressed is that a consultation has been opened on draft statutory guidance.

To wait an undefined period of time for Central Government to resolve the issues with taxi legislation is not prudent. Matters such as safe guarding cannot and should not wait. Some of the proposed policy changes relate to matters covered by the task and finish group and are reflected in the draft statutory guidance so UDC will be ahead of the curve with these matters compared to other Local Authorities that have ignored them.

Point 11 & 11.1

We believe this point has been adequately covered during trade meetings. The method of consultation has been used on a number of occasions before and neither ULODA nor individuals in the taxi trade have objected. UDC believes that the methods used to communicate the consultation and the length of consultation itself are adequate and that no individual has been disadvantaged.

Points 12-12.3

UDC commissioned an audit of its taxi licensing service to give it assurance that it was carrying out all steps necessary to fulfil its role of ensuring public safety. This process included discussions with the trade and their concerns were reflected in the outcomes. The proposals put forward seek to raise the bar and ensure due diligence with regards to the statutory responsibility placed on UDC. The consequences of waiting until there is evidence of a problem before doing something has been reported in the press on a number of occasions in recent years. The changes to safeguarding etc. references the various reports and findings that have come out of the issues that have been reported nationally such as Rotherham, Oxford, etc. Although there have been no specific legislative changes in relation to safeguarding in taxi licensing the whole view and seriousness of the approach that has been taken has changed over recent years. The gravity of failing to ensure that appropriate measures are in place to check fitness and priority are clear for all to see.

Points 13-13.2

Please see the answer above. The policies were audited and lessons learned by other authorities pointed to there being more that UDC could do to ensure public safety. As detailed above, waiting for complaints before taking appropriate action to prevent potential harm, means that the measures are already too late.

Points 14-14.2

ULODA's commitment to best practice in education and training throughout the trade is to be applauded. As part of this consultation input was welcomed regarding the content of the proposed training course. It is not clear from your response exactly how ULODA would like to participate? If you have any specific proposals then please put them forward.

Ultimately as the regulator it is for UDC to decide the content of any training but we have openly consulted with ULODA and the rest of the licensed trade and will continue to do so.

As part of the consultation all operators were contacted for details of any training they provide to drivers. The responses varied from no training being provided, to requesting drivers to read the company safe guarding policy, to customer service training only, etc. None of the responses supplied contained sufficient detail regarding the provided training for them to be given consideration for integration into the proposed training course. The only way for UDC to ensure that a consistent level of training is delivered and maintained to its licensed trade is stipulate the training that must be attended and the testing to ensure understanding.

UDC has been conscious to try to avoid duplication of training and adding additional costs onto the licensed trade. However with no consistency regarding training between operators or between different education authorities it has not proved possible to make use of the established training you refer to. Therefore it has fallen to UDC to set the standard for training in consultation with stake holders.

In a response to the consultation from the Integrated Passenger Transport Unit at Essex County Council they stated that *"it is felt that the training will drive an improvement in standards"* and that *"the suggested new training is a really positive step forward in that the training is proposed to includes CSE and safeguarding"*.

Points 15, 16 & 16.1

There is much evidence that training has improved the standards amongst members of the licensed trade in a number of areas. The benefit of and need for training is recognised nationally and most recently in the Draft DFT guidance "Taxi and Private Hire Vehicle Licensing: Protecting Users".

2.29 It is important to remember that 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.

2.72 It is the Department's recommendation that licensing authorities provide safeguarding advice and guidance to the trade and that taxi and PHV drivers are required to undertake safeguarding training.

2.76 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation.

Points 17-17.3

UDC has considered the submissions from the trade regarding issuing a school contract only restricted private hire driver and vehicle licences. The authority believes that this could have implications with regards to public safety and as therefore decided that this is not an option that will be taken. One of the responses to the consultation from Roland Pelly states that the legality or not of such a licence has not been tested in court, it is therefore a matter of legal opinion rather than fact.

Once a Private Hire driver's licence is issued then that driver has the ability to carry out any type of private hire work for any Uttlesford licensed operator and as such should be trained in all appropriate areas. There is no proposal to require private hire drivers to take and pass a geographical knowledge test or in how to give change. The proposals do include a basic arithmetic test as part of the test of fitness and propriety but applicants should be able to pass this without the need for additional training.

It is not the intention of any of the proposals to limit suitable people's ability to enter the licensed trade. UDC are trying to diligently fulfil its statutory obligations to ensure public safety and the passengers on school runs are amongst the most vulnerable in society so should be afforded the most protection.

With regards to your comments about the training provided by 24X7 which you state is accredited/approved by Essex County Council we have requested the details of this training so that its content can be considered and the details we have been provided are below:

Please find below the training that a school driver would receive much of it is the passenger assistant training through the Essex DVD and Monkey Puzzle

Emergency Aid Training (first aid)

Passenger Awareness training

Responsibility Training

Passenger Safety training

Step on Training

Passenger Lift Training

Wheelchair securing training

One to training for medical needs

Parental meet and greet observation awareness

Midas training where deemed necessary

Whilst UDC applaud any operator that is providing training to its drivers but without further details of what the training involves it is difficult for UDC to evaluate how in depth that training is. Much of the above seems dependant on the individual needs of specific contracts. As detailed above UDC has received a response from Essex County Council to the current proposals and they believe that the proposed training will improve standards.

The training course, if approved and implemented, will have its content regularly reviewed so the trade will have an opportunity to feed in their thoughts and ideas at these times.

Points 22-22.1

Please refer to the response given to Points 15, 16 & 16.1 and the extracts from the draft Guidance being consulted on by the DfT with regards to the need for training in disability awareness which UDC answers the question regarding the need to evidence which authorities provide training.

Points 23.1-23.2

The report details a proposal in consideration of a course that is currently being delivered and fits with what the authority is seeking to achieve. No contract has been entered into and the final provider of any training has not been decided. UDC appreciates ULODA's concern regarding legal compliance but this is a matter for the authority and does not form part of the consultation.

Points 24-24.1

It is unclear how the extract from the report relates to the question. UDC believes that it is vitally important that any training is provided by trainers that have an in depth knowledge of taxi licensing rather than using a trainer that simply knows the training material to be delivered. This will allow both those people new to the trade and existing drivers to ask questions outside of the training material and receive accurate answers.

The success of courses elsewhere is only of limited relevance to the bespoke course that it is proposed to deliver to applicants and existing drivers. UDC will set its own key performance indicators for the training, if approved, and these will help to measure the success of the course.

Points 27-27.1

It is correct that there is a cost to an applicant or existing driver to attending the training and obtaining a licence. The licence that will subsequently be granted is likely to last for three years (although a shorter licence can be granted where appropriate). Dividing the approximate costs detailed in the report over that three year duration it is likely to cost a new applicant £35.00 per annum and an existing driver £25.00 per annum which although an increase should not preclude people from entering the trade. The draft DfT guidance advises Local Authorities to implement training so it is clear that central government do not believe that it is a 'hurdle' but a necessity for those wishing to enter or remain in the trade.

Points 30-30.2

These questions can again be related back to the draft DfT guidance but for clarity East Herts and Watford, two Local Authorities, providing this type of training measure its success in a number of ways:

- Levels of compliance;
- Levels of complaints;
- Levels of engagement with the trade;
- Number of safeguarding matters or similar reported by drivers;
- Attendees feedback;
- Decrease in the number of abandoned applications.

Anecdotally the trainer for both authorities has generally reported that the course has been received well with even longstanding members of the licensed trade commenting that they had learnt something new from the update course.

Points 37-37.1

The intervals for review and update of the course will not be set until the decision has been taken regarding the implementation or not of training. The cost of the administration work will be borne by the licence trade and will be built into the fees appropriately.

Points 38-38.2

UDC is considering holding training days in a variety of locations within the District. It is not feasible for UDC to consider other training venues across the country, if that is what is being suggested, and it is not deemed unreasonable to expect applicants and existing licence holders to visit the District once every three years to attend a course.

Point 41-48.4

As ULODA will be aware during the review of taxi licensing which ended in early 2018 a draft suitability policy was proposed then. Following this the IOL issued the draft guidance on suitability and the authority reviewed both documents in detail. The IOL guidance has been produced by the Institute of Licensing working

in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation.

The role of a suitability policy is to help ensure public safety and it was felt that either would help UDC to achieve this. Having compared the two documents it was the authority's belief that the IOL draft suitability policy was the best solution for what the authority was seeking to achieve.

The justification requested is that detailed above and we do not propose to go through every individual point and justify it as the response will be the same for each. Your response says that you believe that these all seem disproportionately harsh but this statement is not evidenced. The authority has carefully considered the standards that it believes should be set to ensure the public are protected and then consulted on that matter. The recent draft guidance being consulted on by the DfT details time periods that should be taken as a minimum period before a licence is granted following conviction. These reflect the periods within the proposed suitability policy.

Your response does not make any suggestion of how the policy should, in ULODA's opinion, be amended.

The additional paragraphs that you reference have been added as UDC believes that these are necessary to ensure public safety. This demonstrates the careful consideration that was given to the IOL draft document and shows that where UDC thought the draft could be improved it has done so.

Whilst benchmarking is a useful tool it is not a way in which an authority should set its policy. UDC would welcome national minimum standards and the LGA have been pushing for this for a number of years but it has not happened. In the Government's recent response to the report of the task and finish group on taxi and private hire licensing the government say:

The Government agrees that there should be national minimum standards for Taxi and PHV licensing, and will take forward legislation when time allows to enable these.

Authorities with a responsibility for public safety should not sit and wait for the Government to bring in new legislation and must take the actions it sees fit to fulfil that responsibility.

It is not the intention of the delegation to replace the Licensing & Environmental Health Committee. UDC has listened to the comments ULODA and others have made regarding clarity of process when fitness and propriety is being considered and the proposed change is partially as a result of these. If it is decided to delegate decision making then clear guidance will be issued by the authority so that all parties understand the processes to be followed and the interactions that will be had.

Legal advice will always be sought by decision makers of all levels when appropriate.

Paragraph 50-59.1

I would refer to the earlier response regarding the matter of benchmarking. UDC has proposed changes to its licensing policy and regime that it deems appropriate to best ensure public safety. If other authorities do not take the same steps or have lower standards then this is a matter for them to consider.

Your comments regarding the period of time that a driving licence must be held and the age an applicant must be are noted. The justification for new applicants taking a driving test is detailed in the report. The authority considers this a suitable standard to ensure that applicants are fit and proper to drive the public safely. Holding a driver's licence for a number of years does not mean that a person is necessarily a safe driver. That person may not have driven a vehicle since passing their test or may simply never have been caught driving dangerously. A driving test is similar to an MOT in that it only shows the standard checked to on that particular day.

Asking applicants to pass this higher standard of driving test, or an existing driver passing the test following the imposition of a number of penalty points on their DVLA driving licence, is a better indication of fitness and propriety than simply having a driver's licence. You have referenced the legislation in your response and stated that this is the 'minimum standard' which is a point UDC agrees. However, UDC believes that a higher standard is appropriate to ensure public safety and the legislation allows this standard to be set locally.

With regards to the minimum age for applicants being set at 21 years of age it has been noted that this has a similar affect to requiring a number of years driving experience. As such to avoid any duplication or confusion UDC will remove this proposal for a minimum age for applicants.

Paragraphs 61-61.1

UDC agrees with this point and proposes to remove the age part of the proposed vehicle policy.

There is no proposal to include an engine size but following early discussions with the trade a proposed engine power output was suggested. In the age of hybrid and electric vehicles this was to help accommodate vehicles regardless of the fuel on which they run. As the Committee had already removed the minimum engine capacity requirement the proposal for a minimum power output has been removed.

Paragraphs 90-91.2

We agree to add E7 vehicles.

With regards to left-hand drive vehicles this has been covered in the response to James Button made on behalf of 24X7:

Passengers in the rear of a vehicle have the option to exit the vehicle from either side but this does not apply to the front seat passenger in a left hand drive vehicle who must always leave the vehicle from the offside. Equally important but not originally detailed in the paragraph is the safety implications for a left hand drive vehicle pulling away or overtaking. The driver is not seated in the best position to ensure that these manoeuvres are carried out safely so they have public safety implications.

Again as this is a policy so applications for left hand drive vehicles would be accepted and would be considered on their own merits. UDC has amended the wording in an attempt to make the reasons for the policy clearer.

I refer you to the previous responses regarding bench marking and its relative value. There is no detail in the response regarding why ULODA wish to revisit this point or a suggested amendment. Merely having a policy that states UDC will not licence left hand drive vehicles does not preclude individuals from making applications. Each case would be considered on its own merits and if an applicant was able to demonstrate good reasons for departing from the policy the authority could grant a licence.

Paragraph 96-103.1

This is not a proposal. Hackney carriages are legally required to use the meter for journey's that start and end within the District. However, if a journey either starts or ends outside of the District then a driver can negotiate a fare with the passenger if they wish.

The information that is being requested has implications for public safety as detailed in the report. All the information detailed should already be held by all of the operators licensed by UDC and they would be required to produce it with 24 hours upon request by an authorised officer. UDC seeks this information so that the authority can better ensure public safety. The trade have commented on a number of occasions that there is not enough enforcement and by operators providing the requested information UDC can target its resources where they are most needed.

Paragraphs 107-107.2

Prior to and during the consultation period meetings were held with the trade so that UDC could consider stakeholders opinions. We believe that this has been beneficial and shaped the final proposals going before the Licensing & Environmental Health Committee. It is important to understand that UDC's role in the taxi licensing regime is as the regulator and as such it may not always be possible to find common ground with all stake holders. UDC will continue to engage with and listen to the trade but the consultation around the current proposals is now closed.

UDC appreciates that there are still areas of its taxi policy that need attention and the current proposals are the first wave. These particular matters were chosen to be dealt with first as they were considered to be the most pressing for review. Whilst we consider CCTV to be an important issue ensuring that individuals driving licensed vehicles are fit and proper is paramount to ensuring public safety. UDC would welcome any proposals for further review of the remaining policies in relation to taxi licensing.

I write in response to a number of very serious concerns which you have raised arising out of Uttlesford District Council's proposal to review what are referred to as their Taxi Licensing Policies though, in truth, they would seem far more likely to impinge on the operation of Private Hire Vehicles and their drivers within the district.

First and foremost I believe, is the fact that any changes introduced at this time are, in the light of the November 2018 Task and Finish Group report on Taxi and Private Hire Vehicle Licensing, Steps Towards a Safer and More Robust System, premature and surely should await Government action on that report and its recommendations some of which, I believe, are clearly in conflict with Uttlesford's proposals.

It must follow that if there is to be national guidance (as well as possible changes in the relevant Law) to introduce the District proposals which would then have to be changed to fall into line with national guidelines is clearly a premature exercise and waste of Council Tax payers money. As a minimum also, Uttlesford should, at least, consider their proposals in the light of the Task and Finish Proposals, decide whether they accept those that are in conflict with their present ideas, and then consult with the trade as to its views. For those reasons alone I believe and advise that the proposals should not be implemented at this time. Your remedy if they decide so to do would, I confirm, be an application for Judicial review of that decision.

You have asked me to advise on the introduction by Uttlesford (which you instruct they are not willing to do) of Restricted Private Hire Drivers Licences. I understand that the principle of having such an entity has already been accepted in Uttlesford because mechanics, who road test PHVs, have been granted such. The LG(MP) Act 1976, Section 51 empowers a District Council to attach such conditions as they may consider reasonable. I have not been able to find any authority in law, on either side, where the concept of a Restricted Licence has been considered.

Research on the internet reveals that a relatively large number of Councils have introduced, without any challenge it would seem, the concept of a restricted Licence; the wording across the spectrum restricts the driver from doing any work other than "contracted school runs or Education Transport Contracts" indeed, in Swindon, the restriction is even more onerous in that they insist that the driver can only drive for a named Operator. I cannot see, in those circumstances, why Uttlesford are reticent about introducing a similar Restricted Licence scheme if the trade has no objection to such. Indeed, as I understand it, the trade would very much welcome such as would the drivers to whom it would apply?.

I understand that Uttlesford are intending to introduce a Knowledge Test and a driving test. I do not believe this is necessary in the case of any Restricted Licence Holder or person who already has a PSV Licence (D1 or D) nor would it be held to be reasonable.

I understand that Uttlesford are intending to introduce an age condition so that no driver under 21 would be permitted to drive PH Vehicles. I believe that this condition would not be held to be reasonable pursuant to Section 51 of the above quoted Act. The clear obligation under the section is to grant a licence to everyone who applies for such and who does not come within the 2 exclusions in Section 51 (1) (a) and (b). To introduce a further restriction

by trying to call it a “reasonable condition”, I believe, is clearly contrary to the clear and unambiguous language of the section of the Act and would therefore be ultra vires and void, and any action to refuse a licence, on that ground, would also be open to clear and obvious Judicial Review

You have asked me for any advice I am able to give on the matter of Uttlesford (apparently already) having exclusively retained Watford Borough Council to provide a required training course at their expense for all new drivers and all drivers before they can renew their licences. Your inquiry raises a large number of questions not least the quality of the course, which I understand to be very much in question; the monopoly situation purportedly introduced by Uttlesford; their clear failure to put the course out to Tender; and their failure to permit anyone to go to any course provided by anyone else.

I understand that Uttlesford’s view is that the contract, which would otherwise clearly qualify, did not have to go to tender because they say, the contract would be between the driver and the course provider. Whether Watford will be able to provide the number of courses in addition to their present workload has not been explained. I am taking Counsel’s opinion on all these matters and will come back to you as soon as it is to hand. At present I would be very surprised if we are advised that Uttlesford are not in breach of the Public Contracts Regulations 2015. If so, proceedings can, of course, be issued, to require them to comply with the law.

If there are any other matters I have not addressed, and which concern you, please do come back to me. I consent to your forwarding this email as part of your representations in respect of your response to the Uttlesford proposals.

With kind regards.

Roland Pelly.

RESPONSE:

Dear Mr Pelly

Firstly thank you for your considered response to the consultation, UDC welcomes your input into the process. We have not had sight of the enquiry that Mr Sinnott sent you so in some cases the point you are addressing is not clear. However, we will address your points in the order they appear in your email which was forwarded to us.

The Government’s response to the Task and Finish Group report on Taxi and Private Hire Vehicle Licensing has now been published. As you will be aware this response does not qualify any immediate action to fulfil the short comings in the taxi licensing regime.

Whilst the response is encouraging there is no firm commitment to action or time lines and many of the responses are covered by the caveat ‘when time allows’. This has come as no surprise and is part of the reason why UDC has proposed changes that we believe support the wish to take ‘Steps Towards a Safer and More Robust System’ at least locally for now.

You have raised a point regarding the issuing of a restricted private hire drivers licence. This has not formed a part of the proposals but has been raised by trade representatives in relation to drivers carrying out school contracts only. You comment that you cannot find any authority in law regarding this point so the legality of issuing such a licence for carrying the public remains untested. Similar points have been raised by James Button on behalf of 24X7 limited and our response to him is below as it addresses this point:

In Mr Button's response he, as you and others have, raises the point that UDC already issues a limited licence. This licence is very different to what you have requested as it does not allow the person to drive passenger for hire and reward or licence their own vehicle. The numbers of these licences issued are low (18), for a specific purpose and are localised to the Uttlesford District. This is not a precedent but was a decision based on the risk to public safety of issuing such a licence.

The fundamental consideration is the safety of the public. UDC considers that issuing a restricted school contract only licence has the potential to risk public safety. As an example if UDC issued a restricted vehicle and driver licence the person driving that vehicle may live a considerable distance from UDC and their operator. This driver then has access to a licensed vehicle 24 hours a day and should they choose to use it to carry paying passengers then there would be little that could be done to identify this given the number of licences that would be issued and some of the distances involved...

As people in the taxi industry are aware the travelling public simply see a licensed vehicle and it is rare that they know the difference between a Hackney Carriage or Private Hire vehicle/driver. Simply issuing a different colour/style badge and plate with this restricted licence will not address that risk.

Mr Button states that for the issue of the current restricted licence only a DVLA mandate is required rather than the other checks which are required for unrestricted licences. We would refer you back to the point that these licences do not allow the carrying of passengers for hire and reward and that those that hold them do not have access to their own licensed vehicle.

Although it was not part of the consultation UDC has considered the option of issuing a limited/restricted private hire licence as raised by the licensed trade. However it has decided that the authority will not issue such a licence on the grounds of public safety and it's as yet unchallenged legality.

Part of the proposals is to introduce training, knowledge tests and a driving proficiency test for new applicants for either type of drivers licence. UDC will not be issuing a restricted private hire licence and there is no proposal to exempt the holder of a PSV licence from any part of the application requirements and you have not provided the reasoning for why you consider they should be.

UDC has considered a number of submissions in relation to the minimum age proposed for new applicants and has decided to remove it from the proposals.

At this time UDC has not entered into any form of contract or agreement with Watford Borough Council to provide training exclusively. If the requirement for training is approved then a bespoke course fulfilling UDC's requirements will be implemented. Questioning the quality of such training before it has been commissioned is disappointing. If the proposal regarding training is approved then UDC will comply with all the legal requirements when selecting a training course provider.

SECOND SUBMISSION:

Dear Mr Cobden

I would like the following points noted as a separate response and in addition to that of the ULODA submitted response on which I am a named party.

I do believe that the importance of Task and finishing committee report "Taxi and Private Hire Vehicle Licensing. Steps towards a safer and more robust system" necessitates the delay in any action the council are proposing.

The report apart from having conflicting views on certain items to that of Uttlesford, clearly recommends that in the interim, Government should urgently update its best practice guidance which raises the very real spectre that time, money and resource spent on the Uttlesford changes will be both a waste to the tax payer and an unnecessary burden on the service providers (who are also tax payers).

The Licensing Committee chair only last night, reaffirmed that the actions of Uttlesford must be fair to both the one man operator and the large operator. To persist with the current Uttlesford proposals will be grossly unfair to the small one man operation who can little afford the time or expense away from his business. I also believe that there is a huge over estimation of the capacity of larger operators to divert finance and resource to respond to such large and fundamental proposals especially in such condensed windows of consultation, and in the case of the last two consultations where they have run if not in tandem then back to back.

The counter argument to the perceived benefits of the Uttlesford proposals I believe have not been adequately explored either. Namely if with the fee increases and barriers to company recruitment and retention are detrimental to the operation and viability of Uttlesford operators there are very real risks of :

Lack of supply of contract providers within Uttlesford. Supply will have to be sought from outside the district and therefore the district will lose all control of the transportation of the young residents of Uttlesford.

Lack of general supply particularly at peak/night times when the young and or vulnerable adults of Uttlesford look to avail themselves of such services. Instead they will potentially revert to getting behind the wheel themselves or using apps to book fares at heavily inflated prices due to time and lack of supply in the area. Is this really best serving the primary users of these services in Uttlesford?

The final large user group is the elderly. Without the income from the any one of the user groups the capacity of the trade will be diminished such that, again, these users will be

unable to avail themselves of the transport they desire and thus remain put with the risk of them becoming isolated, or using service providers outside of the district to which Uttlesford have no controls.

I believe that the strong demand for private hire services generated by Stansted Airport to a contracted concession and the excellent and effective work by niche operators in the schools sector give the impression of a strong and thriving industry in Uttlesford; the general trade (taxis and private hire) is fundamentally struggling after 10 years of recession, austerity spending cuts and now Brexit uncertainty. Public safety in Uttlesford will not be benefited by driving businesses out of the district or out of business; so it is that I ask the committee to review these proposals with greater caution than they perhaps have initially done so.

RESPONSE:

Thank you for your response to the consultation and forwarding the email from Roland Pelly.

Both the Governments Response to the Task and Finish Group and the draft revised DfT guidance have now been published and have been reviewed.

Your concern regarding the necessity to delay has been noted. However in the Governments response it gave no indication of when any of the recommendations might be actioned. UDC does not believe that delaying making this process for an unspecified period of time in the hope of new primary legislation is justified. Public safety is of paramount importance as both the Governments response and the DfT draft guidance highlight.

In your response you state that UDC's proposals conflict with those in the Task and Finish Group report. Please highlight which areas you believe are conflicting so that these points can be addressed directly.

We understand your concerns about the consultations but we believe that these are sufficient for all parties to make their views known and for responses to be considered. If as part of the consultation there are proposed implementation dates that the trade believe are unreasonable then they are free to suggest a more appropriate time line. As the regulator UDC's views and that of the trade may not always align on a particular matter but where possible concerns will be accommodated.

You mention fee increases which we assume refers to the recent proposal for a fee increase in 2019/20. The Uttlesford licensed trade have found themselves in a largely unique position over the last few years in that all licence fees have been subsidised by a previous surplus. This was an unsustainable situation and as such fees needed to increase to cover the cost of the regime (as much as is legally allowed) as the surplus is now gone. This is a wholly separate issue that is not part of this consultation.

In relation to barriers to the trade, UDC has consulted on the proposals that it considers address concerns over public safety. It is in no way intended to block entry to the trade.

Lack of supply of contract providers within Uttlesford. As you will be aware schools contracts are awarded by Local Education Authorities and unless prohibited, can be awarded to a provider based outside of the area. Each education authority has its own standards that people fulfilling contracts must meet regardless of where the driver/vehicle is licensed and this will not change. UDC has no control over who is awarded these contracts so the measures proposed will not lesson the control of the transportation of young Uttlesford residents.

Lack of general supply particularly at peak/night times. The impact of the proposals on the supply of licensed vehicles within the district has been considered. The bulk of the new drivers that the authority licences each year do not work in the District so have little or no impact on the supply and demand within Uttlesford. The majority of the proposals relate to new applicants rather than the existing trade existing trade so the impact on these individuals should be lessened. We have listened to the trade and amended proposals, where possible, so that the impact is on the trade is mitigated as much as possible whilst still achieving the aims. For example it was proposed that the new Vehicle Age & Emissions Policy would come into effect on the 1st April 2019 but this has been moved back to 1st April 2020.

We appreciate the point in relation to all the user groups you mention but this must be balanced against the authority's primary responsibility under the taxi licensing regime to ensure public safety.

In formulating the proposals for consultation UDC has considered all sectors of the licensed trade and not just the needs of particular parts. As you will be aware your responses will go before the Licensing & Environmental Health Committee who you can be assured will give all the proposals and consultation responses careful consideration.

Hi Oliver

After much consideration I am going to go with the flow.

I have read all the proposals and agree with a lot especially driver training for new drivers. If it keeps the drivers that don't know what there doing is fine by me we need a better professional service that at the moment we are lacking.but this does need to be on both sides as there is a lot of wrong going on in the trade as i have spoken to you about in the past and still going on..

With no enforcement which we pay for.

The main thing I am worried about is the considerable increase in costs to the trade that are already stretched to the limit.

As for younger cars and lower emissions this cost is enormous to the trade which I think will result in a massive shutdown of company's and produce a trade of more one man bands that will lead to a worse service in the area.

We will all need to increase are prices to pay for this colossal amount of extra cost to the trade which most will find very difficult.

A lot of things that work in city's do not very often work in rural areas. We don't have the foot call of city's neither the business services, pubs, Clubs, restaurants, industry, hospital's, hotel's, to find the Extra work.

Of a ever increasing ageing population of Uttlesford.

RESPONSE:

Thank you for your response to the consultation. Your recognition of the need to improve standards and support for the proposed training, particularly for people entering the trade, is appreciated.

As you are aware only part of the enforcement costs for the regime is recoverable through fees and the rest must come from other sources. The size of the licensed vehicle fleet and its geographic location causes its own particular issues. At this time enforcement often has to be reactive rather than proactive which is something the authority will seek to redress in the future.

Following discussions with stake holders amendments to the draft Vehicle policy have been made. These include the removal of the proposed age criteria and a change to the suggested implementation date to allow the trade more time to consider the available options. It is hoped that these steps will mitigate some of the concerns around the impact of the policy whilst still achieving its aims. The vast majority of the UDC licensed vehicles are already Euro 5 or above so will meet the new criteria when they come into effect in 2021. The delay in implementation will allow those individuals and companies whose vehicles will not meet this standard two years to prepare for the change. Many of these older vehicles are specially adapted to carry passengers with special needs so it is likely that licences would be granted outside of the emissions policy to allow these specially adapted vehicles to continue working as long as they meet all other criteria.

Please be assured that the particular circumstances within the District have been taken into consideration when the proposals were drafted.

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Good morning,

Thank you for sending this consultation to us.

Comments have been regarding the cost increase for the new training and concern for the impact that might have on driver recruitment for the local transport operators but it is felt that the training will drive an improvement in standards.

Regarding positive trace DBS and convictions it is felt that the suggested new training is a really positive step forward in that the training is proposed to include CSE and safeguarding. The suitability guidance provides some clear standards related to how to assess offences, a useful addition might be for a risk assessment also to support this. (if not already in place)

The only additional comment relates to offences/concerns arising when a driver is operating as a Taxi already. This relates to the importance of transport operators having clear policies in place related to codes of conduct to ensure that it is the responsibility of drivers to inform their employer and licensing authority if they are the subject of any investigation by the police or where concerns in their private life arise that may impact on their suitability to work. (We get a number of cases where employees have failed to inform their employer of current investigations which leads to concerns about their honesty and integrity).

Essex County Council supports efforts to reduce vehicle emissions in the county, working through road junction improvements and bids for funding.

<https://www.essexhighways.org/highway-schemes-and-developments/bids-and-funding/Low-Emissions-Buses-Scheme-LEBS.aspx>

Overall it is felt that this Taxi policy review is suggesting a very positive way forward.

We hope that these comments will prove useful.

Yours sincerely

Integrated Passenger Transport Unit
Essex County Council

RESPONSE:

Thank you for your response to the consultation, we appreciate you taking the time to share your views as an authority that awards contracts to operators, drivers and vehicles licensed by this authority. You have, in the same way UDC has, considered the perceived impacts on recruitment against the benefits of improved standards. This is a difficult balance to strike but ultimately it is the safety of the passengers, particularly the most vulnerable, that is of paramount importance.

We are glad that you can see the benefit in the proposed training of drivers and the impact it will have on increasing standards. We see the inclusion of CSE training and safeguarding as

an absolute requirement for any driver but in particular for those undertaking school contracts and appreciate your support. This has been reflected in the draft Statutory Guidance which the Department for Transport are currently consulting. If you wish to view the Guidance and respond to the consultation it can be found here:

<https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-licensing-protecting-users>

UDC shares your concern about people clearly understanding their responsibilities with regards to reporting matters to their employer or this authority. This is a issue that will be addressed in the training for both new drivers and those already in the trade. The expectations of these individuals as professional drivers will be explained in detail and also covered by revised application forms. Combining that with the new suitability policy makes the system more robust whilst we wait for the Government to introduce legislation regarding national minimum standards.

Thank you for the support regarding the Vehicle Emissions criteria and it is helpful to see that we are not the only authority seeking to tackle this issue.

Once again thank you for your comments and support which will be put before the Licensing & Environmental Health Committee when they consider all the reposnses.

Re: Uttlesford District Council Taxi Licensing - Restricted Licences

You have asked me to comment specifically on the views expressed by Elizabeth Smith, Solicitor at Uttlesford District Council in response to questions raised by yourself at the meeting on 13th December 2018

Firstly, Ms Smith stated:

First of all, it is common ground that the trinity of licences – vehicle, driver and operator – has to be in place. Though where a contract is made can sometimes be important in this case it does not matter and there is nothing whatsoever to prevent the creation of the 24 x 7 Group of Companies all of which have their registered office at Stansted.

A company's registered office is very often not its principal place of business and there is *nothing whatsoever* to stop the formation of subsidiary companies in the locations in which school contracts are held and for those companies to hold the operator's licence, trading from a local address, to which the drivers and vehicles are also linked. If they are only doing school contract work the physical premises can be very modest indeed. It could be open to a local education authority to decide at any time that as part of their safeguarding requirements they were going to insist on local licensing, eg Hampshire County Council might require their school contract drivers to be licensed by Winchester City Council; they could probably get around *Knowsley* if it were a safeguarding requirement. Any competent solicitor or accountant could set this up: it is nothing whatsoever to do with the regulatory regime.

My comments are as follows:

There is nothing to prevent an operator licensed by Uttlesford undertaking hirings anywhere in England or Wales. The only proviso is that the vehicles and drivers used to discharge those hirings must also have been licensed by Uttlesford District Council.

However, a local education authority, or a health body (the NHS or social services) may require within their contracts that vehicles, drivers and operators are licensed locally.

Secondly, Ms Smith stated:

Secondly the legislation simply does not provide for a limited or restricted licence. Certainly the roving PHV driver has driven a coach and horses (sorry!) through the intention of the legislature in 1976 that the licensing regime be local, but even though some authorities apparently purport to impose conditions/restrictions on the grant of a driver's licence I very much doubt that those would survive a challenge and in all honesty [REDACTED] could not stop one of his licensed school contract drivers taking that licence and working for another operator evenings or weekends. He might well be able to dismiss them from their employment but he could not surrender the drivers licence for them or require them to do so.

██████████ did accept that his airport drivers *will* have to complete the full training package. However, his school contract drivers almost certainly are a very different sort of person to his airport drivers, quite apart from legal status. I only see drivers before a panel, and the school contract applicants are a) older and b) tend to be there because of very historic convictions, while the PHV drivers tend to have acquired points or in other ways offended recently.

However, the point remains that by its very nature regulation has to be one size fits all, and I am afraid that while the drivers can take their licence and go and work elsewhere, they have to meet competency standards”.

My comments are as follows:

In relation to restricted licences, Uttlesford District Council already issue restricted licences, to those who wish to drive private hire drivers engaged in testing vehicles.

These are granted as a “restricted licence” which is written on the application form. These are treated differently from the mainstream private hire drivers, and the licence is issue without any DBS check or any medical test or assessment being required. The only requirement is a DVLA mandate to enable the Council to access the DVLA driving licence.

As the Council already have this precedent, it is difficult to see why they are not prepared to issue restricted licences to those who wish to undertake only school contract work. The application forms already require an applicant to specify which operator they will be working for, and the hours they intend to work. This could be

reinforced by imposing a condition on such a licence that it could only be used whilst the driver was undertaking school contract work for a specified operator. The Council could then revoke the licence of anyone found using their private hire drivers’ licence outside those situations.

I trust that this is of assistance.

Yours sincerely

James Button
Principal,
James Button & Co., Solicitors

RESPONSE:

From our first discussions regarding policy change at UDC we have carefully considered your request to issue a separate restricted Private Hire Driver’s licence which would allow individuals to only carry out school contract work. I’m sure that you appreciate that in giving this consideration we have also

considered the need to also issue a limited Private Hire Vehicle licence as well as this would need to go hand in hand if a limited driver's licence were to be issued.

In Mr Button's response he, as you and others have, raises the point that UDC already issues a limited licence. This licence is very different to what you have requested as it does not allow the person to drive passenger for hire and reward or licence their own vehicle. The numbers of these licences issued are low (18), for a specific purpose. This is not a precedent but was a decision based on the risk to public safety of issuing such a licence.

The fundamental consideration is the safety of the public. UDC considers that issuing a restricted school contract only licence has the potential to risk public safety. As an example if UDC issued a restricted vehicle and driver licence the person driving that vehicle may live a considerable distance from UDC and their operator. This driver then has access to a licensed vehicle 24 hours a day and should they choose to use it to carry paying passengers then there would be little that could be done to identify this given the number of licences that would be issued and some of the distances involved. We appreciate that you say that your vehicles are GPS tracked and that as an operator you would be aware of any misuse but the authority has to consider that most operators do not have the technology that you do.

As people in the taxi industry are aware the travelling public simply see a licensed vehicle and it is rare that they know the difference between a Hackney Carriage or Private Hire vehicle/driver. Simply issuing a different colour/style badge and plate with this restricted licence will not address that risk.

Mr Button states that for the issue of the current restricted licence only a DVLA mandate is required rather than the other checks which are required for unrestricted licences. We would refer you back to the point that these licences do not allow the carrying of passengers for hire and reward and that those that hold them do not have access to their own licensed vehicle.

The letter makes the point that if a restricted licence were issued and then used inappropriately then that licence could be revoked. This is the case with all types of driver licences so is not considered an argument that supports the issuing of the proposed restricted licence. Again you will be aware that the legislation relating to taxis is old and the process of revoking a driver's licence can often be a long drawn out affair allowing a driver to continue to work until any appeal is concluded.

From discussions during the consultation it appears that you would be seeking to have different levels of training, if training is implemented, for the different types of driver licence (restricted or not). It is this authority's contention that the school contracts drivers are likely to be carrying some of the most vulnerable members of society, not just those that are young but possibly children with a variety of special needs. The authority needs to ensure that all drivers take their responsibilities seriously if it is to diligently fulfil its statutory obligations.

The issuing of a restricted licence could place an additional burden on to those entering the trade. If a person granted a restricted licence then decide that they wish to do other types of work for hire and reward they would then have to go to the time and expense to change licences. By issuing one type of private Hire licence a person entering the trade can work for any UDC operator carrying out any type of work.

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Re: Uttlesford District Council Taxi Licensing Policy Review

You have asked me to comment on the Uttlesford District Council Taxi Licensing Review. I have now had a chance to consider the draft policy and my comments are as follows.

Committee report dated 27 November 2018

Paragraph 9 - "There are no financial implications as the implementation and operation of the taxi licensing regime operates on a cost recovery basis."

As previously discussed, this statement is incorrect because there are certain matters that cannot be recovered via hackney carriage and private hire licence fees (specifically enforcement and compliance costs relating to drivers and operators).

Paragraph 19 final sentence - "There is no intention to accredit driver training yet but this could be a possibility in the future."

It is not clear to whom this statement refers. The council are proposing to accredit driver training.

Paragraph 22 2nd sentence - "The average cost the driver of that training would be £35.00."

How is this calculated and why is it an average cost? Is this a statement of the average cost of other council schemes, or statement of what the average cost would be for the Uttlesford scheme? This needs to be made clear.

Paragraph 22 final sentence - reference to "an acceptable standard".

What will the standard be? Acceptable to whom?

Paragraph 27 final sentence - "This fee would be subject to an additional amount for the hire of a venue."

Why? The cost of any pre-application requirements should be both clear and the same for all applicants.

Paragraph 31 in its entirety and also paragraph 35 final sentence.

As mentioned above, this is unacceptable. The council needs to determine what its costs are and charge that cost to each applicant.

Paragraph 36 in its entirety.

It is not clear how long before a renewal date a driver can sit the update course. There needs to be a reasonable timescale, but it would defeat the object if the update course could be sat within a month of the initial licence being granted, leaving 2 years 11 months before renewal.

Paragraph 39 its entirety.

This seems remarkably vague when other elements appear to be finalised.

Paragraph 42 2nd sentence - This states that "the draft policy recognises the different roles that drivers, proprietors and operators have and takes this into consideration with regards to the relevance of each offence."

This is not correct. The suitability policy makes it clear that exactly the same criteria will be applied to vehicle proprietors and operators as drivers (see paragraphs 4.52 and 4.57 of appendix B to the committee report).

Paragraph 44 in its entirety.

Appendix B is the complete Institute of Licensing document, but it is clear when it is read that the suitability policy should only incorporate the Institute document from paragraph 4.18 onwards. This suggests that the Council does not fully understand that document.

Beyond that, I am sure you will appreciate that I cannot comment critically about Appendix B in its entirety as I was one of the members of the Institute of Licensing working party that produced the guidance.

Paragraph 48 final sentences - "It is suggested the decision-making under the suitability policy is delegated to officer level, Environmental Health Manager (Commercial), in consultation with the Chair of the Licensing Environmental Health Committee. In the absence of the Environmental Health Manager (Commercial) the decision could be taken by more senior officer and in the absence of the Chair it is suggested that this should sit with the Vice-Chair (or in their absence 3 members of the committee)."

This makes sense provided any member involved in such a decision-making process (including the Chair or Vice-Chair) have had appropriate training.

Paragraph 49 - reference to "a reasonable command of the English language".

This needs to be defined.

Paragraph 56 2nd sentence - "Licensed drivers that are given a prescribed number of points on their DVLA licence would be required to pass the Council approved driving test within a fixed time period or face suspension."

What is the prescribed number?

Paragraph 59 reference to "most authorities have increased the period that an applicant must have held a driving licence before they can driver licence vehicle to between 3 and 5 years."

What is the evidence for this? How many authorities have taken this approach? Which authorities? How many prescribe 3 years, how many prescribe 4 years and how many prescribe 5 years?

Paragraph 61 onwards - reference to age and emissions policy

Why have both an age and emissions limit? If a vehicle does not meet the admission requirements it will be over the age limit anyway.

There is any reference to "exceptional condition criteria" allowing exceptions to the age policy. Surely there must also be exceptions to the emissions policy?

I also suggest that there should be some further exceptions for purpose-built or converted vehicles that are designed for carrying particular passengers, or passengers with particular disabilities.

Paragraph 90 - types of vehicles that will be licensed.

There is no reference to E7 vehicles (which are not approved by TfL). The should be included.

Why are they specifying that extended wheelbase vehicles, converted vehicles or smart cars can only be private hire?

Paragraph 91 - left-hand drive vehicles.

This explanation as to why left-hand drive vehicles will not be licensed does not make sense. Exactly the same dangers apply to rear seat passengers in any vehicle. Is there any other evidence to suggest that left-hand drive vehicles are less safe than right-hand drive vehicles for use as hackney carriages and private hire vehicles?

Paragraph 94 - "Vehicles shall produce a minimum of 76 BHP/57 kW."

There is no indication how this will be assessed. I would suggest that the power output is accepted as being that specified by the manufacturer when the vehicle was new.

Paragraph 103 sub paragraph 1) - "Add the requirement to record the address where each vehicle is kept when it is not working to condition 1."

Why is this relevant?

Paragraph 103 sub paragraph 8)b) 2nd sentence - "This is entirely legal however if the vehicle is not working predominantly outside the area in which it is licensed."

This sentence does not make sense, and indeed the whole paragraph is meaningless.

Paragraph 103 sub paragraph 8)c) - entire paragraph.

Why is this necessary? The operators' records will show whether the vehicle has been subcontracted, or the booking is the result of a sub contract. It is highly unlikely that a complaint will be investigated after 3 months have elapsed.

Appendix F paragraph 2 vi) - "Shorts, other than smart tailored shorts."

The justification for amending drivers licence conditions (given in paragraph 101 of the report) is that ""smart" is subjective". This remains subjective.

Appendix F paragraph 21 - "the driver shall when hired to drive to any particular destination, subject to any direction given by the hirer, proceed to such destination by the shortest possible route."

This takes no account of road conditions. The shortest route may not be the quickest. This needs to be reconsidered.

Appendix G paragraph 2 c) - "How the booking was made (via app, telephone, in person)."

If this is intended to be an exhaustive list, it needs to include email, computer, letter.

Appendix G paragraph 2 c) - "The start point of journey and actual pickup time."

Surely should this should be a reference to the booked pickup time, rather than the actual pickup time? Whether it is necessary to record the actual pickup time as well is a matter for discussion.

Appendix G paragraph 3 2nd sentence – reference to inspection within 12 hours.

This is unreasonable, and should be at least 24 hours. As it stands, if a request is made at 4:30 PM the records would need to be made available before 4:30 AM the following day.

Appendix G paragraphs 14 & 15 in their entirety.

At present these paragraphs do not make sense. They only refer to employees, are not independent contractors or the casual staff. Paragraph 15 is also badly drafted.

I trust that this is off assistance, and please do not hesitate to contact me if I can provide any further advice.

Yours sincerely

James Button
Principal,
James Button & Co., Solicitors

RESPONSE:

Thank you for your response to the consultation documents and we would like to address each of Mr Button's points in turn.

Committee report dated 27 November 2018

Paragraph 9 – UDC is aware that not all of the costs of the regime can be recovered from licence fees. However, the statement relates to the proposals that are contained in the report rather than to the overall cost of the entire regime.

Paragraph 19 final sentence – It is agreed that this sentence could be clearer. If training is implemented then UDC would ultimately like the training to be accredited as this brings benefits to

the trade and the authority. Accredited training could be recognised by other Local Authorities allowing drivers to transfer the training if in the future they chose to apply to another Local Authority to be licensed. This would be a step towards national standards which would be beneficial to all.

Paragraph 22 2nd sentence - It is agreed that this sentence could be clearer. From research carried out this is the average cost being charged for similar training and is indicative of the likely cost to UDC licensed drivers. The cost of update course cannot be finalised until the decision has been made whether or not it will be implemented as this may appear to some to be predetermining the outcome. A suitable venue would need to be found and booked based on price/quality, the length and content of the course finalised etc. before the final cost could be calculated.

Paragraph 22 final sentence – The acceptable standard will be set by UDC at a level it believes will ensure the safety of the public having taken into account all the relevant factors.

Paragraph 27 final sentence – The cost will be clear and the same for all applicants but the final figure cannot be stipulated before the implementation of training is or is not approved. The venue cost can only be estimated as until the UDC is in a position to book a venue, if training is approved, this figure is variable.

Paragraph 31 in its entirety and also paragraph 35 final sentence – Again costs can only be determined if training is approved.

Paragraph 39 – This refers to how and which venues will be booked and other logistical matters which cannot be determined until a decision regarding training has been taken.

Paragraph 42 2nd sentence – Agreed. Although there are different application criteria the way in which offences will be viewed is the same for drivers, operators and vehicle proprietors.

Paragraph 44 in its entirety – UDC welcomed the Institute of Licensing Guidance on deciding suitability of applicants and feels that the move towards uniform standards by all Local Authorities is long overdue. The entirety of the document was included in the consultation as it was felt that the parts before 4.19 gave a very insightful background to the reasoning behind the document. If it is believed by the trade that the document will be clearer and more succinct if the policy starts at paragraph 4.19 then UDC are happy to make that change. The information that is being excluded from the wording of the policy will be referenced on the website as background to the new policy as UDC may wish to reference it if an appeal is made of a decision to refuse or revoke on the grounds of suitability.

Paragraph 48 final sentences – UDC are aware of the need to have decision makers appropriately trained.

Paragraph 49 – It is difficult to define this term without imposing a test which measures a person's ability to a set standard. Reasonable command of the English language in this reference means that UDC has an expectation that people seeking to be licensed to drive the public are able to hold a conversation in English, for example to clarify a destination, and can write in English, so are able to write a receipt if requested. This reflects the draft DfT Guidance which is currently being consulted on and the definition from the Guidance will be used once it is approved.

Paragraph 56 2nd sentence – As detailed in the policy the prescribed number of DVLA points will be 9 or more.

Paragraph 59 - The majority of Essex and Hertfordshire Local Authorities prescribe 3 years and above. This information was given as benchmarking information rather than the reason for making the change. The relevance of how many Local Authorities prescribe 3, 4 or 5 years is therefore not clear with regards to the proposal as this proposal has not been objected to.

Paragraph 61 onwards – The point regarding the lack of necessity for both age and emissions criteria has been made during the trade consultation. UDC has taken the trade comments on board and is therefore proposing to remove the age criteria from the policy and keep the emissions criteria.

As this is a policy the UDC still have to consider applications to licence vehicles which are outside of the policy and each case will be considered on its own merits. As such an application can be made for any vehicle (including converted vehicles) and UDC will depart from the emissions policy and make an exception if it demonstrated that there are good reasons to do so. Vehicles can be converted in numerous individual ways to suit individual needs so it is not possible to construct an exhaustive list.

Paragraph 90 – UDC agree and will add E7 vehicles to the list of vehicles which will be licensed.

Extended wheel base vehicles such as limousines are not considered suitable for use as Hackney Carriages. In particular these vehicles would take up considerable space on the Districts ranks meaning that the likelihood over ranking would be increased which could have public safety issues. Converted vehicles may not be suitable to carry ordinary members of the public and this could potentially cause issues if the vehicle could be hailed in the street and may not be able to take a fair once at the front of a rank. Similarly if a Smart Car were a Hackney Carriage it would have to refuse a job at the front of the rank if there were two passengers or even one but with substantial luggage. My limiting these vehicles to private hire it is easier for the public to know that the vehicle they are booking is suitable for the job.

As detailed above, this policy does not preclude applications from being made for Hackney Carriage licences for these types of vehicles. Each application will be considered on their own merits.

Paragraph 91 - It is agreed that this paragraph could be clearer. This point does carry merit as it could affect public safety. Passengers in the rear of a vehicle have the option to exit the vehicle from either side but this does not apply to the front seat passenger in a left hand drive vehicle who must always leave the vehicle from the offside. Equally important but not originally detailed in the paragraph is the safety implications for a left hand drive vehicle pulling away or overtaking. The driver is not seated in the best position to ensure that these manoeuvres are carried out safely so they have public safety implications.

Again as this is a policy so applications for left hand drive vehicles would be accepted and would be considered on their own merits. UDC has amended the wording in an attempt to make the reasons for the policy clearer.

Paragraph 94 – In trade discussions it has been highlighted that engine capacity had previously been removed as a vehicle criteria by the Licensing & Environmental Health Committee. Having given the

matter due consideration UDC have removed the proposal for a minimum power output for vehicles from the proposals.

Paragraph 103 sub paragraph 1) – UDC recognises that a significant proportion of the vehicles that it licences are not kept and do not work within the District. From a safeguarding perspective it is important that UDC knows where these vehicles are kept when they are not working. For example should the police contact the authority trying to find a particular vehicle that has been involved in an alleged crime it is important that the authority knows where that vehicle is so the information can be passed on. If the authority does not have this detail then enquiries would need to be made with the operator that licences the vehicle. In this instance there is a possibility, however unlikely, that an individual will be tipped off that the police are enquiring about a vehicle and potential evidence could be lost. UDC believes that it is important to hold the information regarding the location of vehicles so that public safety can be better ensured.

Paragraph 103 sub paragraph 8)b) – This first point is agreed. The sentence should read ‘ This is entirely legal unless a Hackney Carriage is working predominantly outside of the area in which it is licensed’. Following consideration of all the response to the consultation UDC has decided to remove condition 11 from the proposed operator conditions:

11. On a quarterly basis each year (10th April, 10th July, 10th October, 10th January or the next working day if that date falls on a weekend) operators are required to provide the details of any Hackney Carriages that have carried out Private Hire work for the operator:

- a) Registration number, licence number and issuing authority of the Hackney Carriage vehicle; and
- b) The number of jobs each Hackney Carriage has fulfilled in that quarter.

Paragraph 103 sub paragraph 8)c) – Following consideration of all the response to the consultation UDC has decided to remove condition 12 from the proposed operator conditions:

12. On a quarterly basis each year (10th April, 10th July, 10th October, 10th January or the next working day if that date falls on a weekend) operators are required to provide the details of other operators to whom they have subcontracted work:
- a) Operators Name and address; and
 - b) Licence number and issuing authority.

Appendix F paragraph 2 vi – It is agreed that this point is subjective so it is suggested that the wording is amended by removing the reference to shorts.

Appendix F paragraph 21 – the sentence will be amended as follows so that its purpose is clearer:

“The driver shall when hired to drive to any particular destination proceed to such destination by the shortest possible route unless otherwise agreed by the customer.”

Appendix G paragraph 2 c) – This point is agreed and the list was not meant to be exhaustive. The wording will be amended to read “How the booking is made (for example, via App, Telephone, Email, etc.)”.

Appendix G paragraph 2 d) (Not point c as detailed in the response) - This point is agreed and the point will be changed to read “The start point of the journey and the agreed pick up time”.

Appendix G paragraph 3 2nd sentence – UDC are willing to amend this to 24 hours.

Appendix G paragraphs 14 & 15 – The first point is valid and the wording of point 14 will be changed to read:

“The operator is required to ensure that all persons that have access to their records, bookings and contracts have:”

Point 15 will be reworded to read:

“Persons with access to operator’s records, bookings and contracts, whether directly employed or otherwise, must satisfy the suitability standards that the authority applies to applicants for Private Hire Operator’s licences. The operator is record to keep records of such checks.

I hope that this clarifies the points raised and the reasoning behind them. UDC is very grateful for your continued engagement with this process and for the responses you have submitted.



Department
for Transport

Taxi and Private Hire Vehicle Licensing: Protecting Users

Statutory Guidance for Licensing Authorities

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1. Introduction

- 1.1 The Department first issued Best Practice Guidance to assist those licensing authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades in 2006. Following consultation with stakeholders, taking into account their feedback on the original version, the Guidance was revised and updated in 2010.
- 1.2 There is evidence to support the view that taxis and PHVs are a high-risk environment. In terms of risks to passengers, this can be seen in the number of sexual crimes reported which involve taxi and PHV drivers. Data from Greater Manchester¹ and Merseyside² on reported sexual assaults 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% in the Crime Survey for England and Wales³.
- 1.3 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this guidance, 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 2014⁴, 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.
- 1.4 There is consensus that common core minimum standards are required to regulate better the taxi and PHV sector, and the recommendations in this document are the result of detailed discussion and consideration. **The Department therefore expects these recommendations to be implemented unless there is compelling local reason not to.**

¹ https://www.whatdotheyknow.com/request/sex_attacks_2

² https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178

³ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

⁴ <http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted>

- 1.5 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Guidance issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxis and PHVs was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate the sector, this guidance would however cease to apply.
- 1.6 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*⁵ statutory guidance.
- 1.7 This new Statutory Guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department's Best Practice Guidance was last updated. 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).
- 1.8 This Statutory Guidance replaces relevant sections of the Best Practice Guidance issued by the Department in 2010. A consultation on revised Best Practice Guidance, which focuses on recommendations to licensing authorities to assist them in setting appropriate standards (other than those relating to passenger safety) to enable the provision of services the public demand, will be taken forward once the final Statutory Guidance has been issued.

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 guidance and refers to all such vehicles. Taxis are able to be hired immediately by hailing on the street or at a rank.

Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All PHV journeys must be pre-booked via a licensed PHV 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 **PHV** is used throughout this guidance to refer to all such vehicles.

⁵ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

2. Statutory Guidance

Consideration of the Statutory Guidance

- 2.1 The Government set out in the Modern Crime Prevention Strategy⁶ 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.
- 2.2 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 PHV licensing regimes. Both the Jay⁷ and Casey⁸ reports on CSAE highlighted examples of taxi/PHV 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.
- 2.3 The Casey Report made clear that weak and ineffective arrangements for taxi and PHV 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 formulation of this Statutory Guidance.
- 2.4 This Statutory Guidance 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).
- 2.5 The Guidance 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 PHV licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.6 “Having regard” to guidance requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that this is statutory guidance issued directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these recommendations cannot be overestimated.** It is not a question of box ticking; the recommendations must be considered rigorously and with an open mind.
- 2.7 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 this Guidance might be drawn upon in any legal

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf

7

https://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham

8

<https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>

challenge to an authority's practice, and that any failure to adhere to the Guidance without sufficient justification could be detrimental to the authority's defence. **In the interest of transparency however, the Department encourages all licensing authorities to publish their consideration of the recommendations contained in this Guidance and the policies and delivery plans that stem from these. The Department has already undertaken to monitor the effectiveness of the Statutory Guidance in achieving an appropriately high level of standards in taxi and PHV licensing with regard to the protection of passengers.**

- 2.8 This Guidance 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.

Licensing policy

- 2.9 The Department encourages licensing authorities to create a cohesive policy document that brings together all their procedures on taxi and PHV licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 2.10 When formulating a taxi and PHV 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 failings⁹.

"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."

- 2.11 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."

- 2.12 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 PHV sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere are 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.
- 2.13 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. It is therefore recommended that licensing authorities regularly review their licensing policies and their performance, but should also consider interim reviews should there be significant issues arising in their area.

Fit and proper test

- 2.14 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or PHV 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?

- 2.15 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 2.16 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 2.19 below) 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 therefore include information that goes beyond criminal convictions.

Administration of the licensing framework

- 2.17 A policy is only as effective as the way it is administered. The taxi and PHV 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 where 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.
- 2.18 It is essential that all those involved in the determination of licensing matters have received sufficient training and are adequately resourced to allow them to discharge the function effectively and correctly. The Department for Transport

supports the recommendation of the LGA that, as a minimum, training should cover licensing procedures, natural justice, understanding the risks of CSAE and disability and equality awareness in addition to any other issues deemed appropriate. Training should not simply relate to procedures, but should also cover the making of difficult and potentially controversial decisions – the use of case study material can be helpful to illustrate this. 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 the LGA can assist in the development of training packages.

2.19 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.

2.20 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.

2.21 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 2.19. 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.

2.22 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. 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.

2.23 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.

2.24 Regardless of which approach is adopted, all councils 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.

Whistleblowing

2.25 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in this Guidance and believe that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of this Guidance is to protect children and vulnerable adults, and by extension the wider public, when using taxis and PHVs. However, it is in the application of these 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. It is therefore recommended that licensing authorities have effective internal procedures for staff to raise concerns and procedures in place 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.

- 2.26 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 PHV] passengers in the manner in which licensing issues were addressed”*. We are pleased to note that the report concludes¹⁰, *“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.”*
- 2.27 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.
- 2.28 The Public Interest Disclosure Act 1988 (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.

Implementing changes to licensing policy and requirements

- 2.29 It is important to remember that 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

¹⁰ http://www.southribble.gov.uk/sites/default/files/FINAL_REPORT_JUNE_2016.pdf

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.

- 2.30 Where a more subjective change has been introduced, for example an amended policy on previous convictions, licensing authority must still consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities are able to do so. Licensing authorities should record the reasons for any deviation from the policies in place.

The Disclosure and Barring Service

- 2.31 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. 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.
- 2.32 The DfT's 2018 survey of taxi and PHV licensing authorities¹¹ shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal. The Department considers that all licensing authorities should also request a check of the barred lists in addition to the enhanced DBS check, for individuals applying for or renewing taxi and PHV driver licences.
- 2.33 Enhanced certificates with 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. The filtering rules allow for certain old and minor convictions to be removed from a DBS certificate after an appropriate period has passed, but they do not allow filtering where an individual has more than one conviction, has received a custodial sentence or has committed a specified serious offence such as those involving child sexual abuse. Full details of the filtering rules, and those offences which may never be filtered, are available from the DBS¹². As well as convictions and cautions, an

¹¹ <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2018>

¹² <https://www.gov.uk/government/collections/dbs-filtering-guidance>

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 detailed statutory guidance¹³ when considering disclosure. The information provided at each level of DBS checks is summarised in table 1.

- 2.34 It should be noted that licensing authorities must not seek to circumvent the legitimate filtering of previous criminal convictions and other information held by the DBS. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.
- 2.35 Whilst data protection legislation¹⁴ gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, you must not require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This is an offence under data protection legislation.
- 2.36 Driving a taxi or PHV is not, in itself, a regulated activity. This means that an individual subject to barring would not be legally prevented from being a taxi or PHV driver but the licensing authority should take an individual's barred status into account alongside other information available. It is the Department's opinion that, 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.
- 2.37 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006¹⁵. It is an offence to knowingly allow a barred individual to work in regulated activity. The guidance on home-to school travel and transport¹⁶ issued by the Department for Education should be considered alongside this document. Please see DBS guidance on driver eligibility and how to apply.

¹³ <https://www.gov.uk/government/publications/statutory-disclosure-guidance>

¹⁴ the full range of data protection legislation, not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)

¹⁵ <https://www.legislation.gov.uk/ukpga/2006/47/contents>

¹⁶ <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

INFORMATION INCLUDED IN CRIMINAL RECORD CHECKS				
Information included	Type of check			
	Basic	Standard DBS	Enhanced DBS	Enhanced DBS (including barred list check)
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1&2}	No	No	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

Table 1

1. Cautions include reprimands and warnings, but not 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 disclosed on any level of certificate. Further guidance is available at <https://www.gov.uk/government/publications/dbs-filtering-guidance/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).

DBS update service

- 2.38 Licensing authorities should make use of the DBS update service. This subscription service allows licensees to keep their DBS certificates up to date online and, with the individual's consent, allows licensing authorities (as a nominee) to check the status of a certificate online at any time. Subscription to the service removes the need for repeat checks, reduces the administrative burden and mitigates potential delays in relicensing. Licensees should be required to evidence continuous registration and nomination throughout the period of the licence.
- 2.39 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 level and type of DBS certificate. 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. Licensing Authorities should therefore consider routinely checking the DBS certificates of their licence holders, for example every six months.
- 2.40 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check facility that can be accessed via a web service. The Multiple Status Check facility enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the Multiple Status Check facility is available from the DBS.¹⁷ As discussed above, for taxi and PHV driver licensing purposes the recommended level of check is always the enhanced level with check of the adult and children Barred lists. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2.

Licensee self-reporting

- 2.41 As discussed above, the DBS update service is a valuable tool in discharging a licensing authority's duty to ensure that licence holders are fit to hold a licence. However, the routine checking of the DBS record should be in addition to a requirement that licence holders notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any motoring offence, or any offence involving dishonesty, indecency or violence. 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.
- 2.42 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of, would be a breach of a licence condition and might therefore be seen as behaviour that questions honesty and

¹⁷ <https://www.gov.uk/government/publications/dbs-update-service-multiple-status-checking-guide>

therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to DBS and the police

2.43 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS; for example, 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 in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the DBS¹⁸.

2.44 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;
- the DBS may consider it appropriate for the person to be added to a barred list.

2.45 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 available¹⁹.

2.46 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.

Overseas convictions

2.47 **The DBS cannot access criminal records held overseas.** 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. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before

¹⁸ <https://www.gov.uk/government/publications/dbs-barring-referrals-local-authority-referral-duty-and-power/referral-duty-and-power-for-local-authorities-and-regulatory-bodies#local-authorities-as-regulated-activity-providers>

¹⁹ <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

the age of 18 may not be relevant. For information on applying for overseas criminal record checks or 'Certificates of Good Character' please see the Home Office guidance²⁰. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.

- 2.48 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

Conviction policy

- 2.49 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.
- 2.50 Engagement with licensing authorities identified that greater direction from the Department was sought and in some cases required. The Department did not make specific recommendations regarding the assessment of convictions in the 2010 update of the Best Practice Guidance. In response to concerns raised by stakeholders and to assist in greater consistency in licensing, Annex A provides the Department's recommendations on this issue. 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 PHV licensees²¹. These periods should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. 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 each case must be considered on its own merits, and applicants are entitled to a fair and impartial public hearing of their application if required.

Common Law Police Disclosure

- 2.51 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 PHV drivers.

²⁰ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

²¹ [https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

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.

- 2.52 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.
- 2.53 The new procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. We would therefore strongly recommend that licensing authorities maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.

Other information

- 2.54 The LGA's Councillors' Handbook on taxi and private hire vehicle (PHV) licensing²² 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."*
- 2.55 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 we strongly recommend that action taken as a result of information received is 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.
- 2.56 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.
- 2.57 As has been stated elsewhere in this guidance, 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 should therefore 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. For this process

²² <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

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.

- 2.58 The LGA's Taxi and PHV licensing Councillors' handbook²³ advises that Councils should meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared. 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 PHV driver licence refusals and revocations (the register is known as 'NR3'). The use of tools such as NR3 by licensing authorities to share information on a more consistent basis would mitigate the risk of non-disclosure of relevant information by applicants.
- 2.59 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 PHV driver 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 practice²⁴.
- 2.60 If notification under paragraph 2.57 or 2.58 of a refused or revoked license is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. The information disclosed 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.
- 2.61 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 2.57, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should therefore review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 2.62 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)

²³ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

²⁴ <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

should operate on three common principles: information sharing, joint decision making and coordinated intervention.

2.63 The Home Office report on Multi Agency Working and Information Sharing²⁵ 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 Groups²⁶ 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.

2.64 The Department recommends all licensing authorities should establish a means to facilitate the objectives of a MASH. As has been emphasised throughout this guidance, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and PHVs is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

2.65 The LGA recommends that all councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual licensees²⁷. 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.

2.66 Licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that **must** be available on their website and displayed in 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 PHV driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged. A systematic recording of complaints will provide a further source of information to consider when renewing a licence for a driver or operator or identify problems during the period of the licence.

2.67 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.

²⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338875/MASH.pdf

²⁶ https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/07/If_only_someone_had_listened.pdf

²⁷ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

- 2.68 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 2.104 - 2.106.

Duration of licences

- 2.69 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and PHV drivers and five years for PHV operators. Any shorter duration should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case. Such circumstances could include where the licensing authority considers that a probationary period is necessary 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.
- 2.70 A previous argument against this length of licence 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 by requiring licensees to subscribe to the DBS update service as discussed in paragraphs 2.38 – 2.40 and authorities to undertake regular interim checks. To help authorities monitor licensees’ suitability, police forces should inform licensing authorities when they believe a licensee presents a risk to the travelling public. Paragraphs 2.51 - 2.53 provide further information about this process.

Safeguarding awareness

- 2.71 Licensing authorities should consider the role that those in the taxi and PHV 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.
- 2.72 It is the Department’s recommendation that licensing authorities provide safeguarding advice and guidance to the trade and that taxi and PHV drivers are required 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.

- 2.73 In February 2018, the Department for Education (DfE) launched phase 3 of its nationwide campaign – ‘Together we can tackle child abuse’. Building on phases 1 and 2, which ran in 2016 and 2017, it aims to increase public understanding of how to recognise and report child abuse and neglect. The DfE has developed an online toolkit²⁸ of material for local authorities, charities and other organisations to use to support the campaign.

Other forms of exploitation – ‘County lines’ drug trafficking

- 2.74 Victims of exploitation may not appear as such at first sight. 74% of police forces noted the exploitation of vulnerable people (including children) by gangs and organised criminal networks involved in trafficking illegal drugs within the UK²⁹ to move and store drugs and money across the country, often from urban areas to regional locations. They will frequently use coercion, intimidation, violence (including sexual violence) and weapons. This gang activity (known as county lines), and the associated violence, drug dealing and exploitation has a devastating impact on young people, vulnerable adults and local communities.
- 2.75 The National Crime Agency’s updated annual threat assessment of county lines reported that county lines groups are using taxis and PHVs as a method of transportation. In that assessment, 33% of police forces in England and Wales (14 forces) reported use of taxis and PHVs to transport drug couriers between markets. These couriers are often young people who have been exploited and may be victims of trafficking; the typical age range is 15-17 years old, but may be much younger. They may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues or reported as missing.
- 2.76 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:
- young people, sometimes as young as 12, travelling in taxis 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.

²⁸ <https://tacklechildabuse.campaign.gov.uk/>

²⁹ <http://www.nationalcrimeagency.gov.uk/news/1247-latest-threat-update-estimates-at-least-720-county-lines-drug-dealing-lines>

2.77 The Home Office is working with partners to raise awareness of county lines and has produced promotional material that can be used by taxi and PHV companies.³⁰

2.78 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

2.79 Authorities should consider whether an applicant would have any problems in communicating with customers because of language difficulties. Licensing authorities have the freedom to specify the level of proficiency, but it is recommended to cover both oral and written English language skills necessary to fulfil their duties, including in emergency and other challenging situations. This should include:

- conversing with passengers to demonstrate an understanding of the desired destination, an estimation of the time taken to get there and other common passenger requests;
- providing a customer with correct change from a note or notes of higher value than the given fare, and doing so with relative simplicity;
- providing a legibly written receipt upon request.

Enforcement

2.80 Implementing an effective framework for licensing authorities is essential to a well-functioning taxi and PHV sector. These steps will help prevent the licensing of drivers that are not deemed ‘fit and proper’ but does not ensure that those already licensed continue to display the behaviours and standards expected.

2.81 We have discussed the benefits of licensing authorities working collaboratively in regard to the sharing of information, and this can equally apply to enforcement powers. 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. Together with increased clarity for the public on complaining, these measures will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and

³⁰https://www.gov.uk/government/publications/county-lines-posters-for-taxi-and-private-vehicle-hire-staff?utm_source=HO&utm_campaign=LA

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' handbook³¹.

2.82 It is not reasonable to expect drivers to adhere to a policy unless they 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.

2.83 The Department suggest that there should be a clear, simple and well-publicised process for the public to make complaints about drivers and operators. 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

2.84 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

2.85 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 PHV sector has been issued by the Home Office³². 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.

2.86 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the

³¹ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

³² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/613415/A_Licensing_Authority_guide_to_right_to_work_checks_-_England_and_Wales.pdf

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.

- 2.87 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 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.
- 2.88 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.
- 2.89 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.

Criminal record checks for PHV operators

- 2.90 As with driver licensing, the objective in licensing PHV operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles they dispatch are above all else safe. It is important therefore that licensing authorities are assured that the operators they license also pose no threat to the public and have no links to serious criminal activity. Although an operator may not have direct contact with passengers, they are still entrusted to ensure that the drivers and vehicles used to fulfil a booking are appropriately licensed and so 'fit and proper'. PHV operators are also frequently provided with sensitive information such as periods when a home may be vacated as the residents are on holiday. Those making licensing decisions should consider whether they would be content for an applicant to hold sensitive information and are confident that this would not be misused.
- 2.91 PHV operators (as opposed to PHV drivers) are not eligible for standard or enhanced criminal records checks. We recommend that licensing authorities request a criminal conviction certificate (Basic disclosure) from the DBS. Any individual may apply for a Basic check and the certificate will disclose any unspent convictions recorded on the PNC. Licensing authorities should consider whether an applicant or licence holder with a conviction for offences detailed in Annex A (other than those relating to driving) meet the 'fit and proper' threshold.
- 2.92 PHV operator 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 PHV

operators should be required to advise the licensing authority of any changes to the directors or partners.

- 2.93 Individuals, directors or partners granted a PHV operator licence should be required to subscribe to the DBS update service as a condition of licensing and licensing authorities should consider routinely checking the DBS certificates of their licence holders, for example every six months
- 2.94 As explained earlier in the context of driver licensing, the **DBS cannot access criminal records held overseas**. 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. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before the age of 18 may not be relevant. For information on applying for overseas criminal record checks or a 'Certificate of Good Character' please see the Home Office guidance³³ on criminal record checks for overseas applicants. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.
- 2.95 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in Annex A, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

PHV Operators - ancillary staff

- 2.96 PHV drivers are not the only direct contact that PHV users have with PHV operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle controller decides which driver to send to a user, a position that could be exploited by criminals. It is therefore appropriate that all staff that have contact with PHV users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 2.97 Licensing authorities should be satisfied that PHV 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 request that, as a condition of granting an operator licence, a register of all staff that will take bookings or dispatch vehicles is kept. The operator should be required to evidence that they have had sight of a Basic DBS check on all individuals listed.
- 2.98 Operators or applicants for a licence should also be required 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 PHV operators' licence, those with a

³³ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

conviction for offences detailed in Annex A (other than those relating to driving) may not be suitable to handle the sensitive information the public may provide (e.g. that their home is likely to be empty between certain dates) or to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

- 2.99 Those granted an operator licence should be required to maintain a register of staff that take bookings and/or control vehicles and 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.

PHV Operators – Use of passenger carrying vehicles (PCV) licensed drivers

- 2.100 Members of the public are entitled to expect when making a booking with a PHV operator that they will receive a PHV 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 PHV booking should not be permitted as a condition of the PHV operator's licence. Drivers of PSVs who are PCV licence holders are not subject to the same checks as PHV drivers, as the work normally undertaken, i.e. driving a bus or coach, does not present the same risk to passengers.

PHV Operators - record keeping

- 2.101 Section 56 of the Local Government (Miscellaneous Provisions) Act 1976³⁴ requires PHV 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. The particulars to be recorded may be specified by the licensing authority as a condition of the operator licence. The Department recommend that this information should include:

- 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.

- 2.102 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 six months is generally appropriate as the length of time that records should be kept.

³⁴ <http://www.legislation.gov.uk/ukpga/1976/57>

- 2.103 PHV 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.

In-vehicle visual and audio recording – CCTV

- 2.104 Government has acknowledged the potential risk to public safety when passengers travel in taxis and PHVs. In 2012 the Government enabled licensing authorities to undertake enhanced DBS checks. The Department appreciates that all licensing authorities have recognised the risk posed by the very small minority of licensed drivers and undertake this level of check. It is unfortunately the case that no matter how complete the information available to licensing authorities is, nor how robust the policies in place are and the rigor with which they are applied, it will never 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/PHV 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.

- 2.105 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 Wales³⁵ only 17% of victims report their experiences to the police, 28% 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.

- 2.106 The mandatory installation of CCTV in vehicles may deter people from seeking a taxi or PHV 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.

- 2.107 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 and targeted i.e. only when

35

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

passengers (or drivers) consider it necessary and all parties should be made aware that a recording is being made. 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.

- 2.108 It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and PHV 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.
- 2.109 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.
- 2.110 The Home Office '*Surveillance Camera Code of Practice*'³⁶ 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
- 2.111 The Code also sets out 12 guiding principles which, as a 'relevant authority' under the Protection of Freedoms Act 2012³⁷, 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.

³⁶ <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

³⁷ [Section 33\(5\) of the Protection of Freedoms Act 2012](#)

- 2.112 The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '*Passport to Compliance*'³⁸ 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 Office³⁹ (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 tool⁴⁰ to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a certification scheme⁴¹; 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.
- 2.113 The Data Protection Act 2018⁴² 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 guidance⁴³ on how data controllers can ensure compliance with these.
- 2.114 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 guidance⁴⁴ 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. Licensing authorities should consult on this issue 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 PHV users, including children or vulnerable adults.
- 2.115 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

38 <https://www.gov.uk/government/publications/passport-to-compliance>

39 <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

40 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-self-assessment-tool>

41 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-third-party-certification-scheme>

42 <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

43 <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

44 <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/security/>

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.

- 2.116 All passengers must be made aware if CCTV is operating in a vehicle. 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.

Stretched Limousines

- 2.117 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as PHVs. 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. Indeed, the Department’s view is 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 service from the scope of the PHV 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.
- 2.118 Stretched large limousines which clearly have more than eight passenger seats should not in most circumstance be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some circumstances the Individual Vehicle Approval (IVA) regime accepts vehicles with space for more than eight passengers, particularly where the precise number of passenger seats is hard to determine. In these circumstances, if the vehicle has obtained an IVA certificate, 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.

Consultation at the local level

- 2.119 It is good practice for licensing authorities to consult on any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV 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.

- 2.120 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and PHV sector in neighbouring areas; it would therefore be good practice to engage with these to identify any concerns and issue that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; the Department considers this approach to be good practice.

Annex A – Previous convictions guidance

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 PHV 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 public hearing of their application if required. The periods given below should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. 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

Where an applicant has a conviction for an offence of violence, 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 7 years have elapsed since the completion of any sentence imposed.

Sex 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.

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 of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 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 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing 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 7 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 of 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 PHV 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/using a hand-held telephone or hand held device whilst driving

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 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 will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex B - 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 PHVs e.g.:

- a taxi can be flagged down or pre-booked.
- a PHV that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a PHV 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.

New driver training and testing

1. New applicants for driver's licences attend a full day's training course to include training in customer service, driver safety, relevant legislation, disability awareness, safeguarding and other key information required to be a competent and safe driver.
2. The training day will include a test of that knowledge for both dual/combined driver and private hire driver applicants. Applicants for dual/combined driver licences will be subject to an additional geographic test of their knowledge of the District as they are available for immediate hire.
3. Applicants will be provided with access to a comprehensive handbook at the time of booking onto the course as a study aid prior to the course and a quick reference guide to keep once they are licensed. The content the handbook will only be finalised before the course is implemented.
4. As stated above all applicants would receive the same training however the testing would differ slightly in that applicants for a private hire drivers licence would not have to sit a geographical knowledge test. All the other tested elements would remain the same:
 - Rules and regulations
 - Highway code
 - Basic arithmetic
5. The questions would be a mix of multiple choice and written answers allowing the authority to assess the ability of candidates to understand and write written English. Similarly the training requires applicants to interact with each other and the trainer which will be a test of their ability to speak and understand English language.

The proposed content of the course to include training in the following elements but is subject to change to UDC's specification:

Customer Service

The benefit to your business of good customer service

The impact on the trade and other parts of the business (operators) of bad service

What constitutes good customer service in a taxi or private hire vehicle

The current taxi and private hire market (apps etc) and how this impacts upon consumer choice and expectation

Practical examples of good customer service

What to do if a customer asks you to do something that is wrong or illegal

Is the customer always right?

How following rules and regulations helps to reinforce good customer service (wearing of badges, helping with luggage etc)

Customer service statistics (examples from business and surveys that show how customers react to good and bad service)

Rules and Regulations

A thorough journey through all rules and regulations including:

How and where to stop safely

How to correctly identify a passenger

The risks of misidentifying a passenger (plying, insurance, driver safety, bad customer service)

Seatbelts

Smoking

Signage

Luggage

Confirming the route

Meter use

Receipts

Dealing with customer requests (windows, music etc)

Payment

Assisting with driver details in the event of the customer wishing to make a complaint

Driver Safety and Reporting Crime

CCTV

Safety Screens

Credit and Debit card machines

The law and how this protects you (non-payment of fares, assault, abuse)

How to report an incident and how to ensure it is correctly investigated

Civil claims for unpaid fares

Criminal offences

Practical tips (driving at night, keeping doors locked, windows up etc)

Current trends and risks to drivers

Safe-Guarding

How to spot the signs of exploitation in general.

What this means for taxi and private hire drivers specifically (training is tailored to this trade rather than generic 'safe-guarding' training)

Real examples of incidents to work through and give opinions and thoughts on

Child Sexual Exploitation – definitions and signs, age of consent, the law concerning human trafficking

Extremism – definitions and signs, the dangers posed by all forms of extremism

Modern Slavery – definitions and signs, the law concerning human trafficking

County Lines (drug trafficking) – definitions and signs, children particularly at risk.

The warning signs.

How to report concerns
What happens to your information
Keeping yourself safe when assisting others

Disability and Equality Awareness

Split in to three parts – the law, business benefits and practical assistance

The law covers:

The Equality Act 2010

What equality means

Civil and Criminal elements of the Act

Reasonable Adjustment and what this means for drivers

The risks of non-compliance (fines, criminal offences)

Business benefits cover:

The numbers of disabled passengers and types of disability

The growing market and the economic reasons behind this growth

The market specific to St Albans and Hertfordshire

The spending power of the disabled community

The growth in other issues such as mental health and dementia and how this will impact on the trade

County Council school contracts

Practical assistance covers:

Assisting wheelchair users

Language to use

Language to avoid

Sighted Guiding

Assistance for passenger with learning differences

Assistance for passengers who are autistic

Assistance Dogs and other dogs that assist but are not recognised in law

Dementia, dementia friendly cities and the future of safe-guarding vulnerable adults

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Policy on deciding the suitability of applicants and licensees in the hackney and private hire trades

UTTLESFORD DISTRICT COUNCIL

Date: TBC

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Foreword

(from the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades 2018)

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Philip Kolvin QC
Cornerstone Barristers
April 2018

This policy emphasises that any circumstance relating to the applicant or licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to applicants and licensees as to how Uttlesford District Council will approach the important task of making determinations about the safety and suitability of those that seek to obtain a licence to work in the Hackney Carriage and Private Hire Trade.

Chapter 1: Introduction

- 1.1 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.2 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.3 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.4 There is currently no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision so it is a matter for Uttlesford District Council to decide.
- 1.5 This document is intended to provide guidance on how we will determine suitability, taking into account the character of the applicant or licensee. In particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.6 A licensing authority policy can take a 'bright line approach' and say "never", but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².
- 1.7 The otherwise good character and driving record of the subject of the decision will not be considered as exceptional circumstances.

¹ Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence

² [2007] 1 WLR 2067

- 1.8 Simply remaining free from conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 1.9 This Policy contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.

Chapter 2: Guidance on Determination

- 2.1 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 2.2 It is important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 2.3 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 2.4 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 2.5 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 2.6 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use this policy as an indication of the approach that should be taken.
- 2.7 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority will consider the matter from first principles and determine the fitness and propriety of the individual.

Drivers

- 2.8 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence or a private hire driver's licence (or a combined licence driver's licence) are identical, they are considered together.
- 2.9 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

2.10 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.

2.11 In relation to single convictions, the following time periods should elapse after completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

2.12 Where an applicant 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

2.13 Where an applicant 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 exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

2.14 Where an applicant has a conviction for an offence of violence, 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

2.15 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 7 years** have elapsed since the completion of any sentence imposed.

Sex and indecency offences

2.16 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**.

2.17 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

2.18 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Drugs

2.19 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.

2.20 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 5 years** have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

- 2.21 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed or from conviction (whichever is longer).

Motoring convictions

- 2.22 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying 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 or may not result in action against an existing 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.
- 2.23 For licence holders who have accumulated 9 or more points on their DVLA drivers licence they are required to pass the Council approved driving test. If this is not done within 6 calendar weeks of the points being imposed then the taxi drivers licence will be suspended until the driver has successfully undertaken the test. Such testing will be at the licence holders expense.
- 2.24 No driver will be allowed to hold a taxi drivers licence if they have 12 or more current points on their DVLA licence.
- 2.25 In cases where the courts have imposed a disqualification in respect of a DVLA drivers licence an application for a drivers licence will not be granted until **at least 7 years** have elapsed following the reinstatement of that licence. Where a person has had more than one period of disqualification then the application will be refused.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 2.26 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 7 years** have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 2.27 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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 2.28 A minor traffic or vehicle related offence is 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). 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 5 years** have elapsed since the completion of any sentence imposed or the date on which the number of points on the DVLA licence dropped below 7.
- 2.29 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 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 7 years** have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

- 2.30 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 7 years** have elapsed since the completion of any sentence imposed.

Vehicle use offences

- 2.31 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until **at least 7 years** have elapsed since the completion of any sentence imposed.

Private Hire Operators

- 2.32 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 2.33 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 2.34 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be affected by means of the individual staff member being required by the operator to obtain a basic DBS certificate and to make a statutory declaration. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.
- 2.35 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

- 2.36 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 2.37 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 2.38 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 2.39 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 2.40 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Existing Licence holders

- 2.41 As public trust and confidence in the overall safety and integrity of the system of taxi licensing is vital, where a licence holder has received a conviction for any category of offences detailed above, their licence(s) **will be revoked**.

Acknowledgements

This policy is based on the IOL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades released 2018. Uttlesford District Council would like to acknowledge the contribution made by all those involved in creating the document which helps Local Authorities to have robust policies in determining if people are safe and suitable to hold licences.

Driving Proficiency Test

1. All new applicants for driving licences to be required to pass the Councils approved driving test.
2. Applicants to have held a Full UK Drivers Licence (or equivalent) for a minimum of 3 years at the time of application.
3. Licence holders whose ability to drive the public safely has been brought into question by:
 - i. the accrual of penalty points on their DVLA licence (figure stipulated in the authorities Suitability Policy); or
 - ii. another means (such as a series of complaints, etc.)

to pass the Council's approved driving test within a fixed period (stipulated in the authorities Suitability policy) or face suspension of their drivers licence until such time as they successfully pass the test.

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Licensed Vehicle Emissions Policy

The purpose of this policy is to ensure taxis are as safe, reliable and comfortable as possible while at the same time minimising emissions. The policy aims to have a positive impact on emissions as it is recognised that the age of vehicles and the exhaust emission specification are critical to the level of pollutants emitted. Consequently, to improve air quality and reduce emissions from the taxi fleet, standards relating to the exhaust emissions have been introduced in addition to the requirements regarding the age of vehicles.

Emissions Standards

At first application –

- Diesel vehicles must meet or exceed Euro 6 emissions standards from 01/04/2020
- Other vehicles must meet or exceed Euro 5 emissions standards from 01/04/2020
- Other vehicles must meet or exceed Euro 6 emissions standards from 01/04/2021

At renewal –

- From 01/04/2021 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 5 emissions standards.
- From 01/04/2023 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 6 emissions standards.

Where vehicles do not meet the relevant emissions criteria the proprietor may:

- have the vehicle adapted / modified to meet the standard and provide evidence of this
- change the fuel that is used to a cleaner alternative, such as bio diesel or
- replace the vehicle with one that meets the emission standard.

Notwithstanding that each application will be considered on its own merits.

When will the different criteria be applied?

If the licence of a currently licensed Hackney Carriage or Private Hire Vehicle is allowed to **EXPIRE** by its proprietor then any subsequent application will **NOT** be considered as a renewal. This means that where an existing vehicles licence expires, a subsequent application for a licence for that vehicle will be treated as a first time application and the standards and criteria relating to first time applications will be applied.

For the avoidance of doubt when a new vehicle has an existing plate transferred onto it the vehicle will be considered under the criteria for a vehicle being licensed for the first time.

Low Emission and Electric Vehicles

The Council encourages the uptake of low emission and electric vehicles in the District. The authority will seek to examine the feasibility of introducing schemes which help improve the charging network and aid drivers in testing and purchasing electric vehicles.

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LICENSING STANDARDS

HACKNEY CARRIAGES & PRIVATE HIRE VEHICLES

- 1) Types of vehicles that will be licensed:
 - a purpose-built London-style hackney carriage (meaning such vehicle has been approved for use by Transport for London for use as a hackney carriage), or a converted vehicle, which is capable of carrying a passenger whilst sitting in a wheelchair, providing such vehicle has the appropriate approval-type certificate; or
 - a saloon, hatchback, estate or multi-purpose people carrier capable of carrying a folded wheelchair, with at least 4 doors; or
 - a minibus capable of seating a maximum of 8 passengers excluding the driver, with at least 4 doors; or
 - an extended wheelbase vehicle modified by the manufacturer or by a specialist converter approved by the manufacturer and that has the appropriate approval-type certificate (Private Hire only); or
 - E7; or
 - a Smart Car (Private Hire Only).
- 2) Must comply with the Vehicle Emissions policy.
- 3) Must be right hand drive.¹
- 4) Must be standard manufacturers colour.
- 5) The maximum number of passengers which the vehicle will be licensed to carry will be the number of seats recorded on the V5C registration document (logbook) as being suitable for carrying passengers. Where a vehicle has foldable or removable seats, for example in the boot, the decision to licence these for passengers will be made on a case by case basis.
- 6) To carry a manufacturer supplied or approved spare/space saver wheel, manufacturers approved temporary repair kit or to have run flat tyres.
- 7) To be fitted with an internal rear-view mirror.
- 8) To be fitted on both sides with external rear-view mirrors.

¹ Left-hand drive vehicles will not be suitable for licensing on safety grounds. They will generally require front-seat passengers to step into the roadway to enter or exit the vehicle and the driver of a left hand drive vehicle is not in the ideal position for either pulling out or overtaking safely.

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CONDITIONS OF LICENCE - HACKNEY CARRIAGE VEHICLES

Proprietors of the vehicle will:-

1. Keep the vehicle in a clean and well maintained condition at all times.
2. Produce the vehicle for inspection by officers of the council or by a garage authorised by the council to carry out inspections of hackney carriages when requested to do so.
3. Display in the vehicle in a position which is clearly visible to passengers:-
 1. The number of the licence
 2. The number of passengers prescribed by the licence
 3. The Table of Fares currently in operation
 4. A statement that "Complaints should be referred to the proprietor in the first instance and if necessary to Licensing at Uttlesford District Council via licensing@uttlesford.gov.uk or 01799 510510 quoting the driver and/or vehicle licence number".
 5. The name of the proprietor.
4. Display at all times the vehicle licence plate provided by the Council in a prominent position at the rear and on the exterior of the vehicle
5. Ensure that the roof "TAXI" sign is displayed at all times.
6. Ensure the roof sign is illuminated when the vehicle is plying for hire.
7. If the Hackney Carriage vehicle is being driven by a licensed driver other than the proprietor, the proprietor must hold a copy of the individual's Hackney Carriage driver's licence at all times when that driver is driving the vehicle. The proprietor must create a register (electronically or otherwise) and record details of the licence in that register, records to be kept for a minimum of 6 months.
8. Upon being requested to do so to remove any third party advertising from the interior or exterior of the vehicle which in the opinion of the Environmental Health Manager (Commercial) is offensive, harmful to health or unsuitable.
9. In the event that a vehicle is more than 5 years old to produce the vehicle to a council authorised tester for inspection at 6 month intervals.
10. Ensure that the vehicle is fitted with a taxi meter visible to passengers recording the fare payable in accordance with the Table of Fares which shall from time to time be approved by the council or (if lower) the Table of Fares charged by the driver.

11. Notify Licensing in writing of any conviction recorded against him or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction.
12. Notify Licensing in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

CONDITIONS OF LICENCE - PRIVATE HIRE VEHICLES

Proprietors of the vehicle will:-

1. Keep the vehicle in a clean and well maintained condition at all times.
2. Produce the vehicle for inspection by officers of the council or by a garage authorised by the council to carry out inspections of private hire vehicles when requested to do so.
3. Display in the vehicle in a position which is clearly visible to passengers:-
 1. The number of the licence.
 2. The number of passengers prescribed by the licence.
 3. A statement that "Complaints should be referred to the proprietor in the first instance and if necessary to Licensing at Uttlesford District Council via licensing@uttlesford.gov.uk or 01799 510598 quoting the driver and/or vehicle licence number".
 4. The name of the proprietor.
4. Display at all times the vehicle licence plate provided by the Council in a prominent position at the rear and on the exterior of the vehicle (unless an exemption has been granted by the authority).
5. If the Private Hire vehicle is being driven by a licensed driver other than the proprietor, the proprietor must hold a copy of the individual's Private Hire driver's licence at all times when that driver is driving the vehicle. The proprietor must create a register (electronically or otherwise) and record details of the licence in that register, records to be kept for a minimum of 6 months.
6. Upon being requested to do so to remove any third party advertising from the interior or exterior of the vehicle which in the opinion of the Environmental Health Manager (Commercial) is offensive, harmful to health or unsuitable.
7. In the event that a vehicle is more than 5 years old to produce the vehicle to a council authorised tester for inspection at 6 month intervals.
8. Notify Licensing in writing of any conviction recorded against him or (if the proprietor is a company) against any of the company's directors or senior managers within 7 days of such conviction.
9. Notify Licensing in writing of any change of residential or business address during the period of the licence within 7 days of such change taking place.

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**CONDITIONS OF LICENCE - HACKNEY CARRIAGE AND/OR PRIVATE HIRE
DRIVERS LICENCES**

Drivers will:-

1. Be polite
2. Wear smart clothing. The following are deemed to be unacceptable:
 - i) Bare chests;
 - ii) Clothing or footwear which is unclean or damaged;
 - iii) Clothing printed with words, logos or graphics which might offend;
 - iv) Sports shirts e.g. football, rugby or cricket tops or track suits;
 - v) Footwear that prevents the safe operation of the licensed vehicle;
3. Attend to collect pre-booked hirers punctually unless prevented from doing so by some unforeseeable cause
4. Give reasonable assistance to passengers with luggage
5. Carry luggage safely and securely
6. Not eat or drink in the vehicle during the course of a hiring
7. Not play any radio, tape recorder, CD/DVD player or similar device during the course of hiring without the hirer's permission
8. Not use equipment of the type referred to in paragraph 7 above so as to cause a nuisance either to passengers in the vehicle or to others
9. Take all reasonable steps to ensure the safety of passengers
10. Not carry more than the number of passengers specified in the licence for the vehicle
11. Not carry any passengers other than the hirer without the hirer's permission
12. Not carry any animals during the course of a hiring other than animals belonging to the hirer
13. Ensure any animals carried in the vehicle are kept in such a position so as not to be a distraction to the driver or to cause a danger or nuisance
14. Not to demand from a hirer a fare greater than the metered rate or has previously been agreed with the hirer (applicable to the use of private hire vehicles and hackney carriages carrying out journeys that do not start and end in the District)
15. Issue written receipts for fares paid when requested to do so

16. Search the vehicle at the end of each hiring for lost property
17. Take reasonable steps to return lost property promptly to its owner and if this cannot be done to report the matter to the police as soon as reasonably practicable and in any event within 24 hours
18. Carry a copy of these conditions at all times when driving a licensed vehicle and produce them for inspection upon request by a hirer, police officer or officer of UDC
19. Notify UDC in writing of:-
 - a. Any change of address within 7 days of the change of address occurring
 - b. Any change in the driver's physical or mental condition which may affect his or her ability to drive within 48 hours of the driver becoming aware of such change
 - c. Any damage caused to a licensed vehicle or any accident the driver may have been involved in whilst in charge of a licensed vehicle within 72 hours of the damage or accident occurring
20. The driver shall not at any time smoke tobacco or any other like substance or use electronic cigarettes or similar in a licensed vehicle
21. The driver shall when hired to drive to any particular destination proceed to such destination by the shortest possible route unless otherwise agreed by the customer

CONDITIONS OF LICENCE - PRIVATE HIRE OPERATORS

1. The operator shall keep a register of all private hire vehicles which the operator operates containing the following information:
 - a) The make and type of vehicle
 - b) The vehicle registration number
 - c) The name and address of the owner of the vehicle
 - d) The private hire vehicle licence number
 - e) The address where the vehicle is kept when it is not working
2. The operator shall keep a record of every booking of a private hire vehicle invited or accepted on behalf of the operator including:
 - a) The time and date of the hiring
 - b) The name of the hirer
 - c) How the booking was made (for example, via App, Telephone, Email, etc.)
 - d) The start point of the journey and the agreed pick up time
 - e) The destination of the journey
 - f) The fare paid
 - g) The private hire licence number of the vehicle
 - h) The name of the driver and the driver licence number
3. The register and records referred to in conditions 1 and 2 above can be kept in either paper format or electronically. The chosen format should permit inspection with the minimum of delay, and in any case within 24 hours, in response to a request made under section 56(3) Local Government (Miscellaneous Provisions) Act 1976. Where records are kept in electronic format facilities must be available for records to be printed onto paper and to be made available to an authorised officer of the authority or a Police Officer within 24 hours.
4. Records required by these conditions must be retained for at least one year.
5. The operator must notify Licensing in writing within 7 days of:
 - a) Any change of his or her residential address.
 - b) Any change of his or her business address.
 - c) Any additional addresses within or outside of the District from which the operator intends to carry on the business as a licensed private hire vehicle operator during the continuation of the licence.
6. The operator shall provide a prompt and efficient service to members of the public and in particular:

- a) Ensure that unless delayed or prevented by some cause outside the control of the operator, vehicles attend appointments punctually.
 - b) Any premises to which the public has access for the purposes of booking or waiting are clean, adequately heated, adequately ventilated and well lit.
 - c) Ensure that any waiting area has adequate seating facilities.
- 7. The operator shall notify the UDC Licensing Team of any complaints made against the operator or any driver used by the operator within two working days of receipt of the complaint. This includes complaints received from third parties and relates to any journey whether a hiring by the public or from contract work. Any response to a complaint should be forwarded to Licensing when made.
- 8. Ensure that public liability insurance is in place for any premises to which the public have access and provide a copy to the UDC Licensing Team.
- 9. Upon request from the licensing authority operators are required to provide the details of the licensed drivers and vehicles that are operating under their operator's licence:
 - a) Name and licence number of drivers; and
 - b) Registration number and licence number of vehicles.
- 10. Upon request from the licensing authority operators are required to provide the details of all contracts which the operator fulfils which start and finish outside of the District:
 - a) Name and address of the person or company who the contract is with; and
 - b) Starting point for journey; and
 - c) Destination of the journey; and
 - d) Registration and licence number of the vehicle carrying out the contract.
- 11. The operator is required to ensure that all persons that have access to their records, bookings and contracts have:
 - a) A basic disclosure check and completes a statutory declaration in relation to previous offences before being commencing employment; and
 - b) Completes a new basic disclosure at the time when the operator's licence is renewed.
- 12. Persons with access to operator's records, bookings and contracts, whether directly employed or otherwise, must satisfy the suitability standards that the

authority applies to applicants for Private Hire Operator's licences. The operator is to keep records of such checks.

13. Where a premise is rented or leased within the District for the purposes of being an Uttlesford Licensed Private Hire Operator then a copy of such agreement must be produced upon application for the Operator's licence.

NOTE: The authority takes the view that you must have premises within the District to be granted an operator's licence by UDC. Therefore an operator's licence expiry date will not be granted for longer than the time period that you can evidence you have rented or leased premises for.

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