

**REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND
REGULATORY SERVICES**

TO: TAXI LICENSING COMMITTEE

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**DEPARTMENT FOR TRANSPORT STATUTORY TAXI & PRIVATE HIRE
VEHICLE STANDARDS AND POLICY REVIEW**

PURPOSE OF REPORT

To consider, as part of the consultation process, the attached draft policy incorporating the Department for Transport's statutory guidance, together with proposed updated local policies.

RECOMMENDATION

- (1) That responses from this committee be submitted to the Policy and Resources Committee for consideration.
- (2) That the required tax checks on drivers and operators, required under the Finance Act 2021, be incorporated into the draft policy.

REASON FOR RECOMMENDATION

- (1) Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards and are expected to publish their consideration of the measures contained in the Standards and change to policies and procedures that stem from these.
- (2) The Hackney Carriage and Private Hire Policy is due for review every 5 years.
- (3) Under the Finance Act 2021 it will be a legal requirement for the Council to complete a tax check on drivers and operators.

BACKGROUND

1. Pendle adopted revised Taxi Licensing policies in 2016. Although not a statutory requirement these policies are expected to be reviewed every 5 years.

2. In July 2020 the Department for Transport published the attached statutory taxi and private hire vehicle standards to protect children and adults who are over 18 years from harm when using these services. Whilst the focus is on protecting these groups, all passengers will benefit from the recommendations contained in it.
3. All local authorities have a statutory duty to make arrangements to ensure that their functions and services have regard to the need to safeguard and promote the welfare of children. They need to ensure they have clear whistleblowing policies, recruitment policies and clear policies for dealing with accusations against people. The document makes clear that for all Licensing Authorities the *“primary and overriding objective must be to protect the public”* from harm.
4. The standards reflect the significant changes in the industry and lessons learned from experiences in local areas. 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 since the 2010 vulnerable adults.
5. The standards in the document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Guidance and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.
6. The document recommends that Councils have a taxi policy and it is reviewed every five years. Our policy was implemented in July 2016 and is therefore due for a review as well as considering and implementing the statutory changes.
7. The national guidance indicates that when policies are altered there should be an appropriate review of existing licenses. The Council has robust policies in place already and the alterations in this policy will not require any review of licenses.

ISSUES

8. The action required from the statutory guidance is attached as Appendix 1, together with proposed updates to the hackney carriage and private hire policy.
9. Included in the draft policy is a medical exemption policy drafted in accordance with sections 165, 166 & 170 of the Equality Act 2010. The Council is required to produce a list of vehicles designated for wheelchair passengers and this policy enables drivers to be exempt from duties associated with assisting wheelchair passengers and the carrying of assistance dogs for medical reasons.
10. As part of our 5 year review, attached as Appendix 2 are recommended updates to our existing policy.
11. Attached as Appendix 3 is our proposed policy document updated with the statutory guidance together with amendments to our existing policies and typographical amendments.
12. The national guidance considers the benefits of CCTV and whether that should be mandated as a requirement as part of the policy. The consultation with the trade should ask that question if CCTV footage of the vehicle operating and of passenger behaviour would enhance the safety of drivers and passengers.

13. Since the draft policy was published details of a requirement under the Finance Act 2021 has been published and will require adding to the policy. The requirements are, that as from 4 April 2022, licensing authorities must carry out checks on renewal applications from individuals, companies and any type of partnership to make sure they are aware of their tax responsibilities or have completed a tax check.

CONCLUSION

14. The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk.
15. The statutory 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 private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
16. “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
17. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in the statutory guidance and the policies and delivery plans that stem from these.

IMPLICATIONS

Policy: To adopt a policy to protect children and young people from the risk of sexual abuse and exploitation and to ensure there is no discriminate against disabled passengers.

Financial: There will be a minimal cost to the Council in producing exemption certificates.

Legal: A legal challenge could be made to an authority’s practice and any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence.

Risk Management: None arising directly from the report.

Health and Safety: None arising directly from the report.

Sustainability: None arising directly from the report.

Community Safety: guidance to protect children and young people.

Equality and Diversity: to ensure disabled passengers are not discriminated against.

APPENDICES

Appendix 1 – proposed action/updates required from the statutory guidance

Appendix 2 – proposed routine updates to the hackney carriage and private hire policy

Appendix 3 – draft hackney and private hire policy

Appendix 4 – Department for Transport Statutory Taxi & Private Hire Vehicle Standards

LIST OF BACKGROUND PAPERS

The Department for Transport “Best Practice Guidance”.