

Crawley Borough Council

Report to Licensing Committee

9 November 2020

Department for Transport Statutory Taxi & Private Hire Standards:
Overview of the Standards, Consultation and Implementation

Report of the Head of Community Services – HCS/22

1. Purpose

- 1.1 To inform the Licensing Committee of the Department for Transport's (DfT) recently published Statutory Taxi and Private Hire Vehicle Standards (the Standards), published on 21st July 2020 (Appendix A). The Standards set out a range of robust measures to protect private hire and hackney carriage passengers. The Standards are designed to strengthen and improve local authorities' existing policies and practices. It also sets out steps to help licensing authorities work together to ensure that public safety is the primary concern of the hackney carriage and private hire licensing regime. A copy of the Standards can be found here: <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
- 1.2 To seek the Committee's agreement to undertake a consultation exercise to raise the community's awareness of the Standards and seek views before proposing changes to the Council's Policy.

2. Recommendations

- 2.1 That the Licensing Committee note this report, including Appendix A, the Department for Transport's Statutory Taxi and Private Hire Vehicle Standards, published on 21st July 2020.
- 2.2 That the Committee authorise the Head of Community Services, in consultation with the Cabinet Member for Environmental Services and Sustainability, to undertake a consultation exercise for a minimum of 4 weeks in order to raise awareness of the Department for Transport's Statutory Taxi and Private Hire Vehicle Standards.
- 2.3 That the Licensing Committee note that a further report will be prepared for consideration at the Licensing Committee in the new year which details the relevant responses to this consultation, along with the proposed changes to the Council's Private Hire and Hackney Carriage Licensing Policy to incorporate the new statutory standards as well as a proposed implementation timetable to comply with the same.

3. Reasons for the Recommendations

- 3.1 The primary purpose of the licensing regime is to protect public safety. The Council, as licensing authority, is responsible for licensing in excess of 780 vehicles, which undertake a large number of local and national journeys. It also licences approximately 1000 individuals as drivers who must be 'fit and proper' to hold a licence as well as a number of private hire operators.

- 3.2 The introduction of the Standards seeks to further boost Crawley Borough Council's existing Private Hire and Hackney Carriage Licensing Policy by placing a range of proposed measures on a formal national footing, and expects the Council as the licensing authority to include the Standards within this Policy. The Standards aim to promote passenger safety and to formalise information sharing amongst local authorities and other statutory organisations.

4. Background

- 4.1 The Council as licensing authority has an existing Private Hire and Hackney Carriage Licensing Policy (the Policy), adopted originally in 2015. Appendix L of the Policy was revised in 2019. Appendix L sets out the Council's approach and provides a framework for decision making, and covers a range of matters including driver conduct, the 'fit and proper' test, and the relevance of offences. The Policy also incorporates matters relating to private hire and hackney carriage vehicles, private hire operators, vehicle proprietors and drivers, vehicle and driver standards as well as wider compliance and enforcement matters.
- 4.2 Section 177(1) of the Policing and Crime Act 2017 enables the Secretary of State to issue guidance to public authorities as to 'how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm'.
- 4.3 The Secretary of State for Transport issued new Statutory Taxi and Private Hire Vehicle Standards to licensing authorities on 21st July 2020, which are primarily aimed at safeguarding children and vulnerable adults. The Standards set out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those who are the most vulnerable.
- 4.4 There is now an expectation that the Government and licensing authorities must work together to ensure that, above all else, the taxi and private hire vehicle services the public use are safe.
- 4.5 The DfT has stated that it will monitor licensing authorities' responses to the Standards. The DfT is aware of the challenges caused by the current coronavirus (COVID-19) pandemic and is mindful of this.
- 4.6 However, the Secretary of State is asking all licensing authorities to provide an update to the DfT of their consideration of the Standards, six months after their publication, namely by 31st January 2021. The DfT expects these recommendations to be fully implemented unless there is a compelling local reason for not doing so.
- 4.7 Licensing authorities have a legal duty, under Section 177 of the Police and Crime Act 2017, to have regard to the Standards when exercising any functions relating to their taxi and private hire functions. It has been declared that in the interests of transparency, all licensing authorities should publish their consideration of the measures contained in the Standards, with such being included in the relevant Hackney Carriage and Private Hire Policy. There is a need to provide outline delivery and implementation plans.
- 4.8 This update will enable government bodies to engage with those licensing authorities that do not adopt the Standards and will seek from them a rationale for failing to act to protect passengers. This is a compelling reason to incorporate such into the Council's current Policy.
- 4.9 The Standards are seen nationally as an important first step in reforming the way the taxi and private hire vehicle sector is regulated and should ensure consistent standards

between licensing authorities. Currently, there are wide differences between authorities in terms of standards, driver suitability and enforcement practice.

5. Summary of the Standards

The main areas the Standards cover are as follows:

5.1 **Licensing Policy.** Authorities should produce a 'cohesive policy document' that brings all procedures together, including a convictions policy. When formulating policies, the overriding objective must be to protect the public. Policies should be reviewed every five years.

- **The Council has a current Policy which will be reviewed and consulted upon in light of the Standards.**

5.2 **'Fit and proper' test.** Should be based on a balance of probabilities, and be proportionate. Applicants should not be given 'the benefit of the doubt' and if the panel is '50/50' as to whether the applicant is 'fit and proper' they should not be given a licence. This is a lower threshold than for criminal convictions and can therefore include information on other matters of concern in addition to criminal convictions.

- **The Council has been determining applications on the basis of the above for a considerable period. The amended Appendix L as part of the Policy provides a further framework for decision making, although each case is considered on its merits.**

5.3 **Administration.** There should be sufficient training and adequate resources for all those involved with making licensing decisions. Any functions that are delegated should be set out in a clear scheme of delegation and it is suggested that less contentious matters can be resolved by authorised officers, with clear decision making processes.

- **The Council already has an appropriate scheme of delegation to allow for decision making to take place, along with mechanisms to determine more serious matters.**

5.4 **Whistleblowing.** It is recommended that authorities have in place effective internal procedures for staff to raise concerns, and procedures for any concerns to be dealt with openly and fairly.

- **The Council has an existing Corporate Whistleblowing Policy which will be adapted and incorporated in any future Policy.**

5.5 **Drivers' enhanced DBS checks.** Subscription to the DBS Update Service allowing checks at any time and at least every six months, and other measures to check an individual's history where they cannot be part of the DBS Update Service.

- **Currently, drivers licensed by the Council are required to undergo an enhanced DBS check every 3 years or shorter in line with the renewal of their driver's licence. Conducting an enhanced DBS check biannually (every 6 months) would increase the cost to drivers six-fold, totalling approximately £500 over 3 years.**

If incorporated into the Council's policy, a requirement to evidence drivers' continuous subscription to the update service would need to be a condition of licence. After applying for a DBS certificate, the driver would subscribe to the service and nominate Licensing Services as an authority that could view the status of their online certificate every day. The DBS

then conduct a weekly check for new conviction information.

If there is new information, the DBS certificate's status is updated to advise that a new certificate is required.

- **Approximately 70 licensed drivers currently subscribe to the DBS Update Service which costs £13 per annum. This will need to be extended to include all licensed drivers as appropriate.**
- **There are circumstances in which individuals are not permitted by the DBS to subscribe to the update service, and they should still be subject to an enhanced DBS check in the current way every six months.**

5.6 **Overseas convictions.** The Disclosure and Barring Service cannot access criminal records held overseas – certificates of good character should be obtained where an applicant has previously lived outside the UK for a period of more than 3 continuous months.

- **This Council has required the production of a certificate of good conduct/good character for a number of years where an individual has resided overseas for a period, and as such, this practice in Crawley is already well established.**

5.7 **Convictions Policy.** All authorities should have a clear policy that takes 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.

- **This Council updated Appendix L covering convictions and related matters in 2019. This broadly corresponds with the Standards and is based on the Institute of Licensing document relating to the same.**

5.8 **Notifications of convictions.** The Standards recommend that licence holders should notify licensing authorities within 48 hours of an arrest and release, charge or conviction for sexual, violent, dishonest or motoring offences.

- **This Council requires notification of such within 7 days. This could be implemented by varying this condition of licence.**

5.9 **Criminality checks for vehicle proprietors.** The Standards require a basic disclosure to be undertaken annually.

- **Currently, where vehicle proprietors own a vehicle, but do not hold a licence to drive it, the Council does not require any form of criminality check. This vehicle is rented out to 'journeymen' who pay a fee to the proprietor to drive that vehicle for the purposes of hire and reward. The requirement for all vehicle proprietors to undergo a basic DBS check every 12 months is a new requirement and forms part of the Standards.**
- **Where the proprietor/licence holder is a limited company, all directors would be required to undergo a basic DBS check every 12 months. Where a new director joins, a new basic DBS check will need to be provided.**

5.10 **Duration of driver licences.** It is recommended by the Standards that driver licences should be issued for three years by default, unless the applicant requests a licence for a

shorter period. Short term licences can be issued to licence holders who have a time-limited right to work in the UK.

- **This Council conducts a check of the driver's DVLA driving licence each year and at the time of renewal, and as mentioned previously, the DBS update service checks for convictions every week.**

The Council already provides the option for individuals/operators to licence for one, two or three years.

5.11 **Common Law Police Disclosure.** These should also be considered as part of the 'fit and proper' test. This replaced the previous Notifiable Occupations Scheme.

- **When a licence is revoked due to the holder representing a risk to a child or vulnerable adult, this is now reported to the DBS. They will then consider whether the individual should be added to a barred list.**
- **Where a licence is refused or revoked on the grounds of public safety, the police are now informed as a matter of routine.**

5.12 **Multi-agency Safeguarding Hub (MASH).** Authorities should establish a means to facilitate the objectives of the local MASH. It highlights obstacles in sharing information as a barrier to effective safeguarding.

- **Whilst the Council feeds into MASH as part of its wider safeguarding responsibilities, further work is required to incorporate the recommendation of the Standards.**

5.13 **Complaints against licensees.** All authorities should have robust complaint recording systems and take action if necessary. Authorities should produce guidance for passengers on how to make complaints. Operators should be able to share concerns regarding drivers with the local authority.

- **A Council complaints and feedback procedure is already established, and the current Policy covers this as well as operator licence conditions. Further work is planned to incorporate the recommendations of the Standards, including the provision of a sticker in the vehicle where the passenger can feed back to the Council about a vehicle, driver or operator.**

5.14 **Mandatory safeguarding awareness training for all drivers.** Authorities should provide safeguarding advice and guidance and explain to drivers how to respond and report concerns and where to get advice. Training should include 'county lines' drug trafficking awareness. The Standards specifically reference two resources, the DfT's 'Together, we can tackle child abuse' toolkit and the Home Office's 'county lines' materials.

- **The taxi team is currently exploring different approaches to the design and delivery of safeguarding, county lines and child sexual exploitation training. Discussions are already taking place with training providers as well as West Sussex County Council and Sussex Police for this training to occur as part of the licensing process, both for new and existing drivers.**

5.15 **English assessment.** All drivers should be able to converse with passengers to understand destination, estimates of time along with other common passenger requests. Drivers should be able to provide correct change and produce a legibly written receipt upon request.

- **This is being explored by the taxi team.**

5.16 **Enforcement.** Joint authority agreements between authorities are encouraged. Drivers should be made aware of relevant policies and repercussions.

- **Joint enforcement and authorisations are already a feature across Sussex and will continue. The establishment of the East and West Sussex Taxi Group, comprising of local authorities and other enforcement partners including Sussex Police has facilitated information exchange and a consistency of approach.**

The Council's Policy is readily accessible on the Council's website, and this is drawn to the attention of existing and prospective licence holders by the taxi team.

5.17 **Suspension and revocation of driver licences.** The guidance clarifies situations in which revocations and suspensions may be used.

5.18 **Private hire operators and criminal record checks.** All operators should be subject to an annual basic DBS check. Ancillary staff that have access to booking records should also be DBS checked.

- **This Council has required operators (and the directors of any such company where applicable) to undergo standard DBS checks.**

This is being extended to include call handlers and those with access to booking records, and forms part of the latest revision to the current Policy, but is yet to be fully implemented.

5.19 **Record keeping.** The Standards suggests minimum information that should be recorded when accepting a booking, including the following conditions of licence:

A. The requirement for a basic DBS check and the notification of any convictions to the employer should be included in employment contracts for roles with responsibility for taking bookings or dispatching vehicles.

B. An 'employing ex-offenders' policy, for roles with responsibility for taking bookings or dispatching vehicles, must be in use and visible to Licensing Services.

C. The name of any individual that dispatched a vehicle from the base must be logged with the fare, along with the name of any driver that responded to the booking request (i.e. including those that were unsuccessful in being allocated the fare).

D. If a fare is subcontracted, the original operator must be able to show that the contracted operator complies with the above conditions.

E. The use of Public Service Vehicle (PSV) driven by a 'Passenger Carrying Vehicle' licensed driver to fulfil a fare, without the informed consent of the booker, is prohibited. The booker must be informed that the driver is subject to different checks and not required to have an enhanced DBS check.

- **The Council already imposes conditions on operator licences regarding the information to be recorded, as well as the recording and investigation of complaints. The Policy will need to be revised to take account of the Standards.**

5.20 **CCTV in vehicles.** Local consultation to determine if mandatory CCTV would have a positive or negative effect on the safety of passengers, to include audio and visual recording.

- **As yet, CCTV is not mandatory in the Council's licensed vehicles. It is seen as a valuable tool in keeping both the driver and passenger safe. Currently, CCTV conditions are attached on a case by case basis, but are restricted to imagery only. The Licensing Committee has previously indicated that it supports the use of CCTV in licensed vehicles. The current vehicle licence conditions covering CCTV require review and updating to accord with technological advances and evidential standards required by Sussex Police.**

5.21 **Local consultation.** It suggests it is good practice to consult when proposing significant changes to local licensing policy. Consultation should include passengers and trade groups.

- **The Council has an established corporate consultation process.**

5.22 **Changes to policies.** Should apply to all licence holders (any changes would be retrospective but on a case by case basis).

5.23 **Stretched limousines.** Licensing of these should be considered.

6. Department for Transport

6.1 The Department for Transport expects these recommendations to be implemented unless there is a compelling local reason not to. The Council is expected to provide an update of their consideration of the Standards by the end of January 2021. The Department also expects the Council to publish its consideration of the measures contained in the Standards along with the policies and delivery plans that stem from them.

7. Key Actions

To summarise, the points in the Standards that require further consideration by Crawley Borough Council as the licensing authority are:

7.1 Signing up to a national licensing database to share information on revoked or refused licences referred to as the 'NR3 Database'.

7.2 Driver enhanced DBS checks every six months which is far more frequent than currently, with an impact on Council officers as well as prospective and current licence holders.

7.3 Sourcing and implementation of safeguarding awareness/child sexual exploitation and 'county lines' training for all licence holders, along with new procedures to determine the method of delivery. This will have an impact on Council officers and prospective/current licence holders.

7.4 DBS checking and increased frequencies for private hire booking and dispatch staff. This has an implication for Council officers and licence holders.

7.5 CCTV and audio recording assessment in vehicles to safeguard drivers and passengers as a mandatory requirement. Local authorities had been awaiting national guidance to this point. This will have an impact on all vehicle proprietors, drivers and operators as well as Council officers.

- 7.6 Joint enforcement powers for Council officers with/from other districts and boroughs to be kept under review.
- 7.7 Review of the Council's current Private Hire and Hackney Carriage Licensing Policy and conditions therein in light of the Standards. This is a significant piece of work for Council officers.

8. Financial Implications

- 8.1 The Taxi Licensing Service is self-financing and the costs associated with the service are recovered from licence holder fees and charges.

9. Legal Implications

- 9.1 Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Standards when exercising any functions relating to their taxi and private hire functions.

10. Background Papers

- [Crawley Borough Council's Private Hire and Hackney Carriage Licensing Policy 2017](#)
- [Department for Education guidance – 'Together we can tackle child abuse' toolkit](#)

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