

East Herts Council Report

Licensing Committee

Date of meeting: 25th November 2020

Report by: Oliver Rawlings (Service Manager – Licensing and Enforcement)

Report title: Response to Department for Transport (DfT) Statutory Taxi and Private Hire Vehicle Standards

Ward(s) affected: All

Summary – The Department for Transport (DfT) has issued “Statutory Taxi and Private Hire Vehicle Standards”. As an authority that issues both Hackney Carriage and Private Hire licences we “must have regard” to the document when exercising our functions and formulating policy. This report is the first step in that process.

RECOMMENDATIONS FOR Licensing Committee:

- a) That Members review and comment on proposals detailed in this report; and
- b) That Officers are instructed to carry out an 8 week public consultation regarding the proposed changes.

1.0 Proposal(s)

- 1.1 That the report is received by Members of the Licensing Committee.

2.0 Background

- 2.1 On the 21st July 2020 the DfT issued its long awaited update of the “Best Practice Guidance” issued by the DfT in 2010. This

came in the form of “Statutory Taxi and Private Hire Vehicle Standards” which despite its title covers matters relating to drivers, operators and vehicles.

2.2 The DfT states the following in the introduction of the document:

- There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers.
- Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups.
- The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department’s Best Practice Guidance.

3.0 Reason(s)

3.1 The DfT therefore expects these recommendations to be implemented unless there is a compelling local reason not to.

3.2 The document 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.

- 3.3 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 3.4 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 the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 3.5 East Herts as a licensing authority has, in relation to Taxi and Private Hire Licensing, generally created and implemented policies that either meet or exceed the newly issued standards.

- 3.6 The relevant parts of the 40 page Standards document has been reproduced in the appendices to this report.
- 3.7 Appendix A highlights relevant paragraphs and areas that need attention. Officers have commented on the contents of the Standards and where necessary made suggestions for solutions. The relevant sections are shaded grey for clarity.
- 3.8 As part of the DfT standards there is an annex called "Assessment of Previous Convictions" which is the DfT recommendation on how to assess previous convictions. East Herts has had a "Suitability Policy" in place for a number of years which has operated successfully and it is not proposed to replace this document with the DfT's annex. The DfT document is based on a document originally drafted by the Institute of Licensing and this document was considered when the Suitability Policy was last reviewed in 2019.
- 3.9 Annex B to this report compares the approach recommended by the DfT to East Herts existing Policy and it is evident that they mirror each other quite closely with regards to time periods. Although the Suitability Policy will not be replaced two recommendations for amendments to section 4, Driving and Traffic Offences have been made.
- 3.10 Officers are seeking members' comments regarding the steps proposed in order to meet the requirements of the DfT Standards before a full consultation on the changes is undertaken. The results of that consultation will be brought back to Licensing Committee for consideration on 10th March 2021.

4.0 Options

- 4.1 Not consult on the proposed changes resulting from “The Statutory Taxi and Private Hire Vehicle Standards”. This would go against the requirement for consultation at a local level detailed in the standards and would leave any policies or decisions open to challenge.
- 4.2 Not propose any changes to following the publication of “The Statutory Taxi and Private Hire Vehicle Standards”. As an authority we are required to give the standards due regard and the DfT “expects these recommendations to be implemented unless there is a compelling local reason not to.”

5.0 Risks

- 5.1 If the authority cannot demonstrate that it has given due regard to the DfT Statutory Taxi and Private Hire Vehicle Standards then the authority will be open to legal challenge.
- 5.2 Failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence of any legal challenge.
- 5.3 If the authority does not have robust policies and procedures in place then it is unable to limit, as far as is possible, the risks to the public.

6.0 Implications/Consultations

Community Safety

See paragraph 5.3.

Data Protection

No changes are proposed to how data will be held or handled so no additional implications.

Equalities

None as these are national statutory standards which apply to all licence holders.

Environmental Sustainability

None

Financial

None as implementing any changes will be possible within existing budgets or fees can be adjusted to balance any shortfall.

Health and Safety

None

Human Resources

None

Human Rights

None

Legal

None

Specific Wards

No

7.0 Background papers, appendices and other relevant material

7.1 Appendix A - DfT analysis & proposals

7.2 Appendix B – Comparison of conviction time scales

7.3 Department for Transport, Statutory Taxi & Private Hire Vehicle Standards:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf

7.4 East Herts, Taxi Licensing Suitability Policy:

<https://eastherts.fra1.digitaloceanspaces.com/s3fs-public/2019-11/Taxi%20Licensing%20Suitability%20Policy.pdf>

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