

Appendix A - DfT analysis and proposals

1. Introduction

1.3	<p>The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.</p>	<p>This requires a full review of our policies and procedures.</p>
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2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

2.6	<p>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.</p>	<p>Report on 25/11/2020 is the first step to demonstrating that we have had regard to the standards</p>
2.7	<p>“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.</p>	<p>Report on 25/11/2020 is the first step to demonstrating that we have had regard to the standards</p>
2.8	<p>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).</p>	<p>Meetings are public and the minutes of Licensing Committee and other meetings are published on the internet.</p>

3. Administering the Licensing Regime

3.5	One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.	We do this
3.8	It is in the application of licensing authority's 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. Licensing authorities should have effective internal procedures in place for staff to raise concerns and 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.	Procedures in place for reporting of concerns.
3.10	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.	The policy is on the website and has been brought to the Licensing Teams attention: https://www.eastherts.gov.uk/about-east-herts-0/fraud-and-whistleblowing-policies
3.12	Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle 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.	We have always held robust public consultations officers will draw up, publish and maintain a list of consultees for taxi matters to formalise this.

3.13	Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.	Service Manager - Licensing & Enforcement Chairs the Herts & Beds Licensing Group which has created a number of working groups. Councillor liaison could be looked at.
3.14	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.	We were the first authority in Hertfordshire to apply new standards retrospectively in 2016 and we will continue to do so.
3.15	Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.	We do this and our policies clearly state that exceptions will be made where the merits of the particular case warrant it.

4. The Disclosure and Barring Service

4.2	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.	We have annual checks currently which are more frequent than most other authorities.
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4.3	<p>Enhanced certificates with a 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. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the DBS. As well as convictions and cautions, an 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 statutory guidance issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).</p>	<p>Checks made directly with the Police often show matters that are not disclosed on an enhanced DBS check but that we would still consider to be relevant.</p> <p>Enhanced DBS checks can often be inconsistent with regards to what content is disclosed.</p> <p>Without further conversations with the Police the Authority would have to take a candidates word for what conduct lead to a conviction or caution as this is not included on the DBS.</p>
4.4	<p>It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a ‘right of access’ to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual’s criminal records is through an enhanced DBS and barred lists check.</p>	<p>We do not require individuals to exercise their subject access rights. Applicants explicitly consent to us making checks directly with the Police.</p>
4.5	<p>Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual’s consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.</p>	<p>We have mandated this since 1st June 2020 for all new applicants and drivers requiring an Enhanced DBS Check.</p>
4.7	<p>Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the DBS.</p>	<p>We Are working closely with St Albans on this but it has been delayed by changing priorities due to the pandemic.</p>

Common Law Police Disclosure

4.10	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.	In practice this does not work in the same way that the previous scheme did. It relies on Police officers being aware of common law disclosure, asking if someone is a taxi driver and then considering it relevant information.
4.11	This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.	We maintain close links with Police officers where we can but it is impossible to do this with all officers in East Herts and even more difficult further afield.

Licensee self-reporting

4.12	Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. 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. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.	We currently require this within 3 days. Proposal: Amend the requirements so that notification must be within 48 hours. We do have the mechanism in place to swiftly review licences.
4.13	Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.	This is clearly detailed in our policy.

Referrals to the Disclosure and Barring Service and the police

4.14	In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. 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 make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the DBS.	Whilst we have the ability to do this there is a need for a clearly documented process which will be communicated to all team members.
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Working with the Police

4.17	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, action taken by the licensing authority as a result of information received should be 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.	"Appropriate information" is provided when we request it. There is a national issue that most front line police officers do not see the significances of matters relating to taxis. Locally this works well. We do give feedback.
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Sharing licensing information with other licensing authorities

4.20	As has been stated elsewhere in this document, 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 and licensees should 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. Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.	This is part of our application form.
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4.21	<p>The LGA's Councillors' Handbook on taxi and private hire vehicle licensing 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." 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 private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.</p>	<p>Through Herts & Beds Licensing Group we have been a driver for high standards and Countywide consistency.</p> <p>We have uploaded data onto NR3 and all officers have access to the system.</p>
4.22	<p>For these processes 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.</p>	<p>We do.</p>
4.23	<p>All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.</p>	<p>We do.</p>
4.24	<p>If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it 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. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies</p>	<p>We do.</p>

4.25	Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.	This is clearly covered in our policy.
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Complaints against licensees

4.29	Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.	We do.
4.30	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.	We do and it is assisted by the use of Licensing Record Points scheme.
4.31	To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all 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 private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.	We have a complaints form on our website and display licensing enforcements contact details. We do not display ways to complain in the vehicle but as we have an internal vehicle plate we will be able to implement this. The Enforcement Officers are looking at suitable options.

4.35	Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information	We do this and require a certificate of good conduct from anyone who has spent six months or more overseas (where other checks cannot be made).
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5. Decision Making

Administration of the licensing framework

5.1	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	We have a clear scheme of delegation with matters siting at the appropriate level.
5.2	Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.	We do regular training which is documented.

Training decision makers

5.3	All individuals that determine whether a licence is issued should be required to undertake sufficient training. As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. 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 Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.	We do regular training which is documented.
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5.6	<p>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.</p>	<p>We have a clear scheme of delegation with matters sitting at the appropriate level.</p>
5.7	<p>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 5.4. In particular, the Committee/Board model allows for:</p> <ul style="list-style-type: none"> • 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. 	<p>We are aware of these matters and they were considered when the delegations were made by the Licensing Committee.</p>
5.10	<p>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.</p>	<p>We have delegated to an individual officer but decisions are made in consultation with LC Chair rather than a panel of officers. This has been tested in court on a number of occasions without issue.</p>
5.11	<p>Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, all licensing authorities 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.</p>	<p>Delegated to Head of Housing & Health and their absence CE.</p>

5.14	Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) 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 take into consideration conduct that has not resulted in a criminal conviction.	Documented in our policy and followed.
5.16	Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). 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 private hire vehicle licensees.	The recommendations made in the Annex are generally identical or less strict than we already have in place except in relation to two driving offences, Drink driving/driving under the influence of drugs and Using a hand-held device whilst driving ¹ . Proposal: That the Suitability Policy be amended to explicitly reference the two offences detailed above.
5.17	These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. 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 applicants are entitled to a fair and impartial consideration of their application.	See 5.16 above.

¹ **NOTE:** See Appendix B for comparison of Annex – Assessment of previous convictions and East Herts current Suitability Policy.

6. Driver Licensing

6.2	<p>All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.</p>	<p>We have mandated the update service but not everyone would be on it until June 2023 with the current policy.</p> <p>Proposal: That all existing drivers that are not on the update service are required to do an Enhanced DBS AND sign up to the update service when a criminal record check is next due (regardless of whether that check would have normal only been to a basic level).</p> <p>This will mean that all licensed drivers will be on the Update Service and subject to 6 monthly checks within 12 months of the policy change.</p>
6.3	<p>Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. 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.</p>	<p>Covered in our existing Policy.</p>

Safeguarding awareness

6.6	<p>All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers 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:</p> <ul style="list-style-type: none">• 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.	<p>We do training for all new drivers and at renewal.</p> <p>We currently have a back log of renewed drivers due to the suspension of face to face training but we are working on other options. This requirement is detailed in East Herts Safeguarding Policy and Procedure.</p>
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County lines' exploitation

6.11	<p>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:</p> <ul style="list-style-type: none">• Children and young people travelling in taxis or private hire vehicles 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.	<p>We do for all new drivers and at renewal.</p> <p>We currently have a back log of renewed drivers due to the suspension of face to face training but we are working on other options.</p>
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Language proficiency

6.14	<p>A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.</p>	<p>This is covered by the training days. If a candidate cannot write in English or express themselves verbally then they do not pass.</p> <p>This test is could be considered subjective which is not ideal.</p>
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6.15	A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.	With the move towards virtual training we need to look at the options of how to test written English. Proposal: Consult on the introduction of a spoken English test for both new applicants and renewing drivers.
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7. Vehicle Licensing

Criminality checks for vehicle proprietors

7.2	Enhanced DBS and barred list checks are not available for vehicle licensing. Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.	All our vehicle proprietors are also licensed drivers. Proposal: Amend the vehicle policy to require an annual basic DBS from any vehicle proprietor that does not hold either a driver or operator licence with this authority.
7.3	However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.	This is how we operate the current system and will continue to do so.
7.4	A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate	This is how we operate the current system and will continue to do so.

	information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.	
7.9	All licensing authorities should consult 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 private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.	Proposal: As part of the consultation seek views from all parties regarding CCTV in licensed vehicles.
7.11	The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle 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.	This will be looked at after the consultation if there is evidence that indicates that the instillation of CCTV would have a positive impact overall.
7.12	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 (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or drivers) consider it necessary). 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.	Systems that offer audio recording are more complicated and more expensive. If the consultation justified imposing a CCTV condition there would then need to be an assessment of whether audio were also necessary.
7.13	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. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).	Again this can be looked at after the consultation depending on the outcome.

8. Private Hire Vehicle Operator Licensing

Criminality checks for private hire vehicle operators

8.2	<p>Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.</p>	<p>We currently require this upon application and renewal (which is every 5 years). Proposal: Amend the Policy so that holders of operator licences are required to carry out a basic disclosure annually.</p>
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Booking and dispatch staff

8.8	<p>Licensing authorities should be satisfied that private hire vehicle 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, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.</p>	<p>We do not currently do this. Proposal: To amend Private Hire Operator licence conditions to require a register of all staff.</p>
8.9	<p>Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to 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. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a ‘responsible organisation’ to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.</p>	<p>We do not currently do this. Proposal: To amend Private Hire Operator licence conditions to require a register of all staff</p>

8.11	Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.	We do not currently do this. Proposal: To amend Private Hire Operator licence conditions so that where booking and dispatch is outsourced operators are required to evidence that the outsourced staff are vetted to the same level as if they worked directly for the operator.
8.12	Licensing authorities should also require operators or applicants for a licence 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 private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.	We do not currently do this. Proposal: To amend Private Hire Operator licence conditions so that the authority's standards which apply to Operators (as detailed in the "Suitability Policy") must be applied by the operator to their staff carrying out booking and dispatch.

Record Keeping

8.13	Section 56 of the Local Government (Miscellaneous Provisions) Act 1976 requires private hire vehicle 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. Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking: <ul style="list-style-type: none"> • 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; • the name of any individual that responded to the booking request; • the name of any individual that dispatched the vehicle. 	Most of this is covered. Proposal: To amend Private Hire Operator licence conditions so that they require this information to be recorded as a minimum.
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8.14	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 booking records should be retained for a minimum of six months.	We currently require this information to be held for longer. Proposal: Amend the minimum period for which information must be held to 6 months.
8.16	PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle 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 private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.	We do not currently do this. Proposal: To amend Private Hire Operator licence conditions to reflect this requirement.

9. Enforcing the Licensing Regime

Joint authorisation of enforcement officers

9.2	Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. 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. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and 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' handbook.	No authority in Hertfordshire currently does this but it has been discussed at Herts & Beds Licensing Group. We are working closely with St Albans to pilot this.
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Setting expectations and monitoring

9.3	Licensing authorities should ensure that drivers are aware of the policies that they must adhere and 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.	We regularly remind licence holders of their obligations and operate a points based scheme (which we will revise and update as part of this work).
9.4	The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). 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.	We do this but it could be improved, linked back to displaying information in vehicles.