

# Non-Statutory Licensing Committee

20 January 2021

<b>Report title</b>	Statutory Taxi & Private Hire Vehicle Standards Consultation Response and Recommendations	
<b>Wards affected</b>	All wards	
<b>Accountable director</b>	Ross Cook, Director of City Environment	
<b>Originating service</b>	Licensing	
<b>Accountable employee</b>	Greg Bickerdike	Service Lead - Licensing
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<b>Report to be/has been considered by</b>	None.	

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## Recommendations for decision:

The Non-Statutory Licensing Committee is recommended to:

1. Debate whether the implementation of the DBS Update Service should be hastened with the approval of additional requirements for existing driver licence holders.
2. Approve a six-week consultation into a voluntary CCTV scheme in licensed vehicles.
3. Approve the proposals recommended in the report.
4. Approve the new Private Hire Vehicle, Driver and Operator licence conditions, effective from 1 April 2021.
5. Delegate authority to the Service Lead – Licensing, in consultation with the Chair of the Non-Statutory Licensing Committee, to write and publish a letter to the Department for Transport, detailing the consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.

## **1.0 Purpose**

- 1.1 To inform the Committee of the outcome of the consultation on implementing the Department for Transport's (DfT) statutory guidance.
- 1.2 To recommend proposals, that have been informed by the consultation, for approval by the Committee.

## **2.0 Background**

- 2.1 On 9 September 2020, the Non-Statutory Licensing Committee approved a 12-week public consultation of the proposals to harmonise Licensing Services' policies and procedures with the Department for Transport's Statutory Taxi & Private Hire Vehicle Standards (the Standards).
- 2.2 The consultation ran from 16 October 2020 until 8 January 2021. The questions asked are included as Appendix 1 and a summary of responses to the online consultation as Appendix 2. This report details the outcome of the consultation and the updated proposals, as informed by the consultation responses.
- 2.3 The Standards recommend that 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. It is recommended that the Committee delegate authority to the Service Lead – Licensing, in consultation with the Chair of the Non-Statutory Licensing Committee, to write and publish a letter to the Department for Transport detailing this.

## **3.0 Disclosure and Barring Service (DBS) Update Service**

- 3.1 The Standards recommend that driver licence holders subscribe to the DBS Update Service or undergo enhanced DBS checks every six months.
- 3.2 Rather than pay for a new certificate every six months, it is proposed that drivers be required to subscribe to the Update Service at a cost of £13 per year. This service checks for new offences and information on the police national computer every week, meaning that a new DBS certificate would no longer be required when renewing a driver licence, provided that the driver remained subscribed.
- 3.3 After applying for a DBS certificate, Taxi Plus send an email advising that subscription to the Update Service must be completed within 30 days, as this limit is set by the DBS.
- 3.4 If a driver changes address, the certificate remains valid. If the driver changes their name, they will be required to apply for a new DBS certificate and then link this with their old certificate on the Update Service.
- 3.5 Should the certificate status change, indicating a new offence or information, drivers would be required to apply for a new certificate within 48 hours and provide the DBS certificate to Licensing Services within seven days of the certificate date.

- 3.6 There are circumstances in which individuals are not permitted by the DBS to subscribe to the Update Service and it is proposed that they would be subject to an enhanced DBS check every six months. It is proposed that these licence holders are issued short-term driver licence and badges lasting six months, which are extended by six months upon provision of a new DBS certificate.
- 3.7 The consultation presented amended licence conditions for Private Hire Vehicle drivers which facilitate the implementation of these proposals. These conditions have been updated and are included as Appendix 3.
- 3.8 80.56% of respondents to the online consultation were in favour of this proposal. It is recommended that the Committee approve the acceptance of the DBS Update Service with immediate effect. It is recommended that evidence of continual subscription to the DBS Update Service be required as a pre-requisite for being granted a Hackney Carriage Driver, Private Hire Driver or Dual Driver Licence from 1 April 2021. It is also proposed that the amendments to the Private Hire Vehicle Driver Licence conditions, requiring evidence of continual subscription to the DBS Update Service, be implemented from 1 April 2021.

#### **4.0 Requiring Existing Driver Licensees to Subscribe to the DBS Update Service**

- 4.1 The Committee is cordially invited to debate the method of implementing the DBS Update Service for existing drivers. The licensing authority must have regard to the Standards, which state that licensed drivers should be required to evidence continuous registration with the DBS Update Service.
- 4.2 For drivers to subscribe to the Update Service, they must first obtain a new enhanced DBS certificate at a cost of approximately £50, if they do not have a certificate dated within the last 28 days. There is also the annual subscription fee of £13.
- 4.3 It is proposed that, from 1 April 2021, all new applicants subscribe to the DBS Update Service prior to licence grant and for renewing drivers to evidence subscription prior to licence renewal. This will take three years to implement the Standards but will not require current drivers to purchase an additional certificate partway through their licence. The Committee may consider this action to be too slow, so the following optional actions are presented for consideration:
- A. The Committee could require all existing drivers to evidence continual subscription to the DBS Update Service within six months. This will ensure compliance with the Standards sooner; however, it will immediately require significant resource to check 17,000 DBS certificates for all existing drivers and their subscriptions to the Update Service. It will also cost drivers £63 sooner than they may have otherwise expected. If drivers are non-compliant with this requirement, it will take significant resource to undertake enforcement action.

- B. The Committee could wait 12 months before drivers are contacted, to ask for evidence of continual subscription to the DBS Update Service. This would mean a 12-month delay to the implementation of the Standards, but would provide drivers with one year's warning about the upcoming cost.
- C. The Committee could formally approve that 'failure to evidence continual subscription to the DBS Update Service' be considered as misconduct. Licences could then be reviewed in consideration of Section 5.1.25 of the 'Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions', which can result in revocation.
- D. A combination and/or variation of the above.

## **5.0 My Licence Portal**

- 5.1 Licensing Services has launched the 'My Licence Portal', which allows licence holders to view and update their records online. The consultation presented amended licence conditions, which have been updated and are included as Appendix 3 for Private Hire Vehicle Drivers, Appendix 4 for Private Hire Vehicles and Appendix 5 for Private Hire Vehicle Operators. These amendments change the preferred method of contact to the My Licence Portal.
- 5.2 Hackney Carriage Byelaws must be agreed by the Home Office and this is a longer process. Further updates on this will be presented to the Committee in due course.
- 5.3 95.3% of respondents to the online consultation were in favour of this proposal. The conditions have been modified to remove other forms of contact which were previously acceptable. It is recommended that the Committee approve these amendments to the licence conditions.

## **6.0 Basic DBS Checks for Vehicle Licence Applicants**

- 6.1 The Standards recommend that applicants for vehicle licences undergo an annual basic DBS check.
- 6.2 Should the DBS certificate contain information, this shall be considered in line with the Council's 'Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions'. Applicants may be required to attend a hearing to determine whether they are 'fit and proper' to hold a vehicle licence.
- 6.3 This would only apply to vehicle licence applicants who do not have a driver licence, as they already undergo an enhanced DBS check.
- 6.4 It was proposed that applicants for vehicle licences, that do not hold a current driver licence, be required to provide a basic DBS certificate dated no more than three months prior to the date of licence application. However, it has since been identified that this will cause administration issues where it is a company, rather than an individual, as they licence many vehicles throughout the year. As such, this proposal has been amended since the consultation so that DBS certificates can be dated up to 12 months.

- 6.5 If the applicant is a company or partnership, basic DBS certificates will need to be provided for all directors or partners. If a new director or partner joined, they would need to provide Licensing Services with a new basic DBS certificate. If a certificate revealed convictions in breach of the 'Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions', a licensing hearing may be arranged.
- 6.6 Appendix 4 includes proposed Private Hire Vehicle licence conditions, under Section 7, which will assist in implementing this.
- 6.7 76.8% of respondents to the online consultation were in favour of the proposal, where certificates were dated within three months.
- 6.8 It has since been identified that the requirement for DBS certificates to be dated no more than three months prior to the application date will be disproportionately onerous to licensees that have multiple vehicles. As such, it is recommended that DBS certificates be accepted for up to 12 months from the certificate date.
- 6.9 It has also been identified that Section 8.2 of the Standards recommends that Private Hire Vehicle Operators undergo a basic DBS check annually. Whilst it is a requirement for Operators to undergo a check prior to grant and renewal, those with licences longer than 12 months do not currently undergo an annual basic DBS check. It is proposed that Operators are required to provide a basic DBS certificate every 12 months throughout the lifetime of their licence. This requirement will also be included as a condition of licence. Whilst this proposal has not been consulted on, given the support for annual DBS checks for vehicle licence holders and that the Standards recommend it, it is submitted for consideration by the committee.
- 6.10 It is recommended that the Committee approve the requirement for vehicle licence applicants to undergo a basic DBS check, with a DBS certificate no older than 12 months prior to application, from 1 April 2021. It is also recommended that Private Hire Vehicle Operators be required to submit annual basic DBS certificates, dated no older than 3 months prior to submission, from 1 April 2021. It is recommended that the Committee approve the amendments to the licence conditions.

## **7.0 Three Year Driver Licences**

- 7.1 The Department for Transport recommends that driver licences should be issued for three years by default.
- 7.2 It was proposed in the consultation that applications for one-year or two-year licences would not be permitted from April 2021.
- 7.3 A check of drivers' DVLA driving licences would take place each year and the DBS Update Service checks for convictions every week. Applicants who are provided with a 'manual' certificate by the DBS and are not eligible for the Update Service would be required to provide a new DBS certificate every six months.

- 7.4 77.74% of respondents to the online consultation were in favour of this proposal.
- 7.5 It has since been identified that, although the Standards advise that short-term driver licences should not be granted by the authority on a probationary basis, if a licensee has requested one then this could be permitted. As such, it is recommended that the committee approve that new applicants be permitted to apply for three-year Hackney Carriage or Private Hire Vehicle Driver licences, or one-year licences on request of the applicant. A separate report, 'Review of Fees and Charges for Hackney Carriage and Private Hire Licensing Functions for 2021-2022', recommending the sum of £120 as the fee is due to be considered by the Committee on 20 January 2021.

## **8.0 Operator Conditions**

- 8.1 The following Private Hire Vehicle Operator licence conditions were consulted on:
- 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.
- 8.2 79.62% of respondents to the online consultation were in favour of this proposal.
- 8.3 Some of these conditions were already effectively included by the existing Private Hire Vehicle Operator Licence Conditions. Proposed Private Hire Vehicle Operator Licence Conditions, which include changes required to implement these recommendations, are included as Appendix 5.
- 8.4 It was suggested by a respondent that Condition A be adjusted to require an equivalent overseas criminal record check, for those Private Hire Vehicle Operator staff that are not UK based and therefore unable to apply for a basic DBS check.
- 8.5 It was suggested that Condition B not be applicable where the job is allocated by a computer system.

8.6 It has also been highlighted that Condition D should be in relation to companies that operators may outsource booking and dispatch functions to (if any), not subcontracting of fares. Condition 2.8 of Appendix 5 has been replaced with wording taken from section 8.11 of the Standards.

8.7 It is recommended that the Committee approve these amendments to the conditions.

## **9.0 Notification of offences**

9.1 The Standards recommend that licence holders should notify Licensing Services within 48 hours of an arrest and release, charge or conviction for sexual, violent, dishonest or motoring offences.

9.2 It is proposed that licence holders be required to notify the licensing authority, within 48 hours, of any arrest and release, charge, conviction, caution or issue of a Fixed Penalty Notice.

9.3 The consultation presented amended licence conditions, which have been updated and are included as Appendix 3 for Private Hire Vehicle Drivers, Appendix 4 for Private Hire Vehicles and Appendix 5 for Private Hire Vehicle Operators. The conditions require notification of these incidents within 48 hours.

9.4 Hackney Carriage Byelaws must be agreed by the Home Office and this is a longer process. Further updates on this will be presented to the Committee in due course.

9.5 80.88% of respondents to the online consultation were in favour of this proposal. It is recommended that the Committee approve these amendments to the conditions.

## **10.0 Taxi Licensing Policy**

10.1 The Department for Transport recommends that Licensing Authorities publish a 'Taxi Licensing Policy' on their website. It is proposed that the below policies will be published together, to improve the transparency of Licensing Services:

A. Right to work in the UK checks

B. Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions

C. Delegations of Authority to Officers

D. Schedule of Training for Licensing Decision Makers

E. Driver, Vehicle and Operator Licence Conditions

F. Vehicle Requirements

G. Licence Plate Exemption Requirements

10.2 92.16% of respondents to the online consultation were in favour of this proposal. It is recommended that the Committee approve the collated publication of these policies.

## 11.0 CCTV

- 11.1 Licensing Services do not currently permit licence holders to install inward facing cameras or cameras with audio recording in licensed Hackney Carriage or Private Hire Vehicles. This is to protect the privacy of passengers from unregulated CCTV systems installed by drivers. However, it is recognised that surveillance cameras can deter crime and are helpful when investigating complaints.
- 11.2 The Department for Transport has recommended an investigation on the proportionality of CCTV, formally known as surveillance cameras, within licensed vehicles. Non-Statutory Licensing Committee approved a public consultation on their use, following the submission of crimes recorded by West Midlands Police involving taxis. A draft Surveillance Camera Policy (Appendix 6) was included in the consultation documents, along with a Data Protection Impact Assessment (Appendix 7) and Draft Surveillance Camera Information Flow (Appendix 8).
- 11.3 The consultation documents outlined a Council-run system, where drivers would not have direct access to the data. Internal video recording would take place whenever the vehicle was being used as a taxi and audio recording would only be triggered by:
- A. A passenger pressing the panic button
  - B. The driver pressing the panic button
  - C. The G-force sensor indicating a crash
  - D. Shouting detected by a microphone
  - E. A door opening when the vehicle is in motion
- 11.4 It was advised that the likely cost of this system would be between £500 and £1,000 per vehicle.
- 11.5 49.22% of respondents to the online consultation were in favour of mandating the installation of this system. It is recommended that the Committee do not approve this proposal in the form it was consulted on.
- 11.6 To help drivers with insurance claims, it was also proposed that the surveillance camera system had video-only cameras at the front and rear of the vehicle, facing out the windscreens which will record video footage at all times the vehicle is in use, as a 'dash-cam' would. This would include when the vehicle is not being used for Hackney Carriage or Private Hire Vehicle journeys.
- 11.7 70.22% of respondents to the online consultation were in favour of this proposal. It is recommended that the Committee do not approve this proposal, as a mandatory Council system is no longer proposed.
- 11.8 It is proposed that a further six-week consultation be approved, on a voluntary CCTV scheme for vehicle proprietors. This would allow installation of cameras and inform



proprietors that they should register with the Information Commissioner's Office for data protection purposes, as they are the appropriate regulating authority. A voluntary scheme could be an alternative and more proportionate crime deterrent, without placing a disproportionate financial burden on licence holders during the coronavirus pandemic. This is aligned with the approach taken by several other licensing authorities.

## **12.0 Financial implications**

- 12.1 There is no cost to undertake the six-week consultation as all consultees can be reached via email or advised of the consultation on the Council's online Consultation Hub. The resource of administering the consultation will be met from existing budgets.
- 12.2 The coronavirus pandemic means that the taxi industry is in an unprecedented situation. The long-term effect is not yet clear and it is not possible to accurately predict how the number of licence holders will be affected.
- 12.3 Any loss could be temporarily absorbed by Licensing Services using reserve funding and rebalanced with a future increase in fees. This sustained strain on reserve funds will offer a form of financial support for licence holders during the pandemic. [SB/12012021/I]

## **13.0 Legal implications**

- 13.1 The Standards have been issued under Section 177 of the Policing and Crime Act and section 177(4) provides that any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section. [SH/07012021/A]

## **14.0 Equalities implications**

- 14.1 The Equalities Team will be included as a consultee of the proposed consultation, to understand any implications of the recommendations.

## **15.0 Climate change and environmental implications**

- 15.1 There are no climate change and environment implications arising from the recommendations of this report.

## **16.0 Human resources implications**

- 16.1 There are no human resources implications arising from the recommendations of this report.

## **17.0 Corporate landlord implications**

- 17.1 There are no corporate landlord implications arising from the recommendations of this report.

## **18.0 Covid Implications**

- 18.1 There are no Covid implications arising from the recommendations of this report.

**19.0 Schedule of background papers**

19.1 Non-Statutory Licensing Committee - 9 September 2020 - [Statutory Taxi & Private Hire Vehicle Standards](#)

**20.0 Appendices**

20.1 Appendix 1 – Consultation Questions

20.2 Appendix 2 - Summary of consultation responses

20.3 Appendix 3 – Proposed Conditions Relating To The Issue Of A Licence To Drive A Private Hire Vehicle

20.4 Appendix 4 – Proposed Private Hire Vehicle Conditions Of Licence

20.5 Appendix 5 – Proposed Conditions Relating To A Licence To Operate Private Hire Vehicles

20.6 Appendix 6 – Draft Surveillance Camera Policy

20.7 Appendix 7 - Data Protection Impact Assessment

20.8 Appendix 8 - Draft Surveillance Camera Information Flow