



Leicester  
City Council

**WARDS AFFECTED: ALL**

**LICENSING & PUBLIC SAFETY COMMITTEE**

**15 September 2020**

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## **STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS**

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### **Report of the Director of Neighbourhood and Environmental Services**

#### **1. Purpose of Report**

- 1.1 The purpose of the report is to inform the Committee of new statutory taxi and private hire vehicle standards issued by central government.

#### **2. Background**

- 2.1 The licensing of drivers, hackney and private hire vehicles, and private hire operators are governed by the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 2.2 The relevant legislation is dated and does not cater for current situations such as the use of booking apps or, mobile phones or the changing expectations of passengers and drivers alike.
- 2.3 The government received reports into taxi licensing matters from the Law Commission almost a decade ago, and from a task and finish group in 2018. Both reports called for action to change the legislation and update the best practice guidance. The government indicated in early 2019 that legislative reform would follow but following the general election in December 2019 this is no longer on the Parliamentary timetable.
- 2.4 The Institute of Licensing issued it's own guidance to licensing authorities in 2018, suggesting minimum standards that should be adopted across the country as best practice in order to ensure consistency and to raise standards.

#### **3. Statutory Taxi and Private Hire Vehicle Standards**

- 3.1 The Department for Transport published the Statutory Taxi and Private Hire Vehicle Standards on 21 July 2020 and took effect immediately. A copy is attached at Appendix A.
- 3.2 Although the title indicates that the standards are enshrined in law this is not the case. The introduction states "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 Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**"

- 3.3 The standards replace relevant sections of the best practice guidance issued in 2010 but does not replace it completely. Where there is conflict, the new standards will take precedence.
- 3.4 Failure to adhere to the published standards without sufficient could damage an authority's position in court because it is likely that a court would take note of the Department's expectation of implementation. The council should publish it's consideration of the standards as well as the resulting policies or plans that arise from it.
- 3.5 The document covers a wide range of things for councils to take into account. Given the position with our policy review and pending taxi strategy, we are in a good position to implement changes. Key items are highlighted below.

*Overarching policy*

- 3.6 It is recommended that a cohesive policy is produced bringing everything together, for example, the fit and proper test for drivers / operators / vehicles proprietors; licence conditions; vehicle standards. This accords with the LCC plan under the taxi strategy, which will set overarching aims under which the policies for drivers, vehicles and operators will sit.
- 3.7 Consultation with stakeholders is also recommended, together with a suggested list of consultees. Not all of these have been consulted as part of the taxi strategy. The policy should be formally reviewed every 5 years, with interim reviews if significant issues arise as well as annual reviews of performance.
- 3.8 Where policies are tightened such that an existing licence would no longer be issued, steps should be taken to review that licence to determine whether it should be allowed to continue. The licence holder should be given ample opportunity to raise their standards (eg, adapt the licensed vehicle or undergo formal training).

*Checks on licence holders and information sharing*

- 3.9 The standards strongly advocate interim checks where a licence is issued for the maximum duration (ie, 3 years for a driver or 5 years for an operator). Suggested checks include 6 monthly DBS checks (via the online update service), whistleblowing policies (within the authority and the trade), the use of common law police disclosure, and a requirement that licence holders must notify the licensing authority of any arrest, charge or conviction (with failure calling into question their honesty/suitability). These checks go beyond our existing practices and the proposals in the current taxi strategy but can be incorporated before it is finalised. For example, we propose the use of the DBS online update service, which would enable 6 monthly DBS checks at no additional cost to the driver).

- 3.10 The licensing authority should also make use of other methods for obtaining and sharing knowledge:
- referrals through DBS
  - knowledge sharing with police and other authorities
  - use of NR3
  - multi agency safeguarding hubs
  - telling passengers how to complain
  - operating a robust system of recording complaints and analysing data and trends
  - ensuring drivers are trained in safeguarding awareness and expected to report concerns.

#### *Decision making*

- 3.11 Crucially, all decision makers should be trained, not just on licensing but also on natural justice, CSE, disability awareness, equality awareness, and the making of difficult and potentially controversial decisions. Training should include case study material and be formally recorded. We do currently train members and officers, but this can be improved in line with these requirements.
- 3.12 The standards recommend that contentious decisions are made by members and those that are less controversial are referred to officers, with transparent scheme of delegation. This is not always practical and it remains acceptable for decisions to be delegated to officers that have a degree of separation from the investigation of concerns and the management of the process. It would appear that the process in LCC remains satisfactory, with decisions made by the Head of Regulatory Services or the Chief Licensing Officer. Urgent matters should be delegated to a senior officer with Licensing responsibility (as is the case in LCC).
- 3.13 The standards refer to the 'fit and proper' test for drivers, operators and vehicle proprietors, including rehabilitation and policies on convictions. The standards mostly match the guidance issued by the Institute of Licensing and which our consultations propose to have regard to. The standards do not refer to multiple convictions or motoring convictions. It is suggested that the IoL guidelines could be adopted in full, but that reference is made to these two omissions from the standards.

#### *Drivers*

- 3.14 The standards set out requirements for drivers, including the need for training on child sexual exploitation (CSE) and county lines and proven language skills. The taxi strategy proposes extending the existing CSE training to include other matters. We currently assess spoken English but not written, which the standards require so that drivers are able to understand policy and guidance. If an existing driver struggles to communicate then the council would have to take a view on their suitability to remain licensed. It may be reasonable to give the driver a period of time (months/years) to bring communication up to scratch.

#### *CCTV*

3.15 The standards give a cautious endorsement to CCTV in licensed vehicles (on the grounds that they deter crime, reduce the fear of crime, assist the police, and assist insurance companies) and the experiences of authorities mandating it has been positive. Matters to be aware of include the need for consultation, that it should be possible to switch the system off when the vehicle is not being used for hire, audio should be overt, targeted not continuous, operable by driver or passenger, and recognise passenger privacy. The GDPR requirements are highlighted but overall the message on CCTV is favourable. The use of CCTV was included in the vehicle consultation for the taxi strategy.

#### *Operators*

3.16 The fit and proper test should be applied to all directors and partners with a requirement to notify the council of any changes in such personnel. Risks associated with customer facing staff should also be considered, particularly those dealing with bookings and the despatch vehicles, and operators should have a clear policy on the employment of ex-offenders. This matches proposals in the taxi strategy.

#### *Other matters*

3.17 The standards make other recommendations including:

- Joint authorisation of enforcement officers with neighbouring / relevant authorities
- Taking steps to ensure drivers understand policies
- Introduce a clear simple system for public complaints
- Making use of suspension pending additional training (where appropriate)

These are either in our proposals or can be added before a final decision is made.

#### *Conclusions*

3.18 The new standards apply immediately and must be borne in mind in the decision-making process. They reflect concern about public safety associated with the taxi trade and the need for licensing authorities to take appropriate steps to reduce risks to a minimum. Some of the measures are already in place or are proposed as part of our new taxi strategy, and clearly the new standards will impact on the final decision on those proposals. There are additional steps that go beyond our current proposals. These will be identified as part of the reporting on the taxi strategy consultation outcomes.

3.19 The overall message is that taxi licensing is very important and that it is up to licensing authorities to raise standards to protect communities through improved policies and officer/member training.

## **4 Recommendation**

4.1 Members are asked to note the information and take account of the content when determining taxi matters.

## **5 Financial, Legal and Equalities Implications**

### **Financial Implications**

- 5.1 No significant financial implications for the Council are expected to arise from the consultations described in the report.

*Colin Sharpe, Deputy Director of Finance, ext 37 4081*

### **Legal Implications**

- 5.2 The Statutory Taxi & Private Hire Vehicle Standards have been issued under s177(1) of the Policing and Crime Act 2017. The document sets out a framework of policies to which, under s177(4), licensing authorities 'must have regard' when exercising their functions. This requires licensing authorities to give the policies the weight which is proportionate in the circumstances. However, ultimately (subject to the caveat detailed at paragraph 3.4 of the Report) decisions made by a licensing authority remain a matter for that authority.

*John Moss, Solicitor Legal Services, ext 37 3010*

### **Equalities Implications**

- 5.3 Under the Equality Act 2010, public authorities have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

Whilst the Department for Transport published the Statutory Taxi and Private Hire Vehicle Standards on 21 July 2020 and came into effect immediately, they should lead to improved outcomes for people from a range of protected characteristics. An equality impact assessment is currently underway as part of the ongoing work on developing the council's Taxi Strategy, and as highlighted in the body of the above report the standards will be incorporated into the Taxi Strategy as appropriate and any issues/concerns identified, will need to be addressed and mitigating actions identified, and included within the equality impact assessment.

Further advice and guidance can be sought from the Corporate Equalities Team.

*Sukhi Biring, Equalities Officer, 454 4175*

## **6 Background Papers – Local Government Act 1972**

None

**7 Consultations**

Legal Services

Finance

Equalities

**8 Report Author**

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