

Briefing Notes

Miscellaneous Licensing Sub-Committee
5 August 2020

Licensing Team Leader

This note contains information to keep Members informed of matters relating to the work of the Cabinet or a committee but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

Statutory guidance: Taxi and Private Hire Vehicle Standards

On the 21 July 2020, the Department for Transport published its taxi and private hire licensing statutory guidance. This is the first time statutory guidance has been issued for taxi and private hire licensing.

<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

1. Status of the guidance

The statutory guidance states at 1.3 that:

“The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.”

The guidance also states at 2.6 & 2.7 that:

*“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.*

*“**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.**”*

It is therefore clear from the above that the statutory guidance carries significant weight and the expectation from Government that the guidance be given serious consideration is clearly set out above.

2. A brief overview of measures

- a) **Whistleblowing (3.8)** - 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.**

b) **Criminal records checks:**

- i. Licensing authorities should insist on the **DBS's Update Service** for all licensed drivers. (4.5)
 - ii. **Common Law Police Disclosures** - 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. (4.11)
 - iii. **Licensee self-reporting** - 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 any of the offences within this scope should result in a review of their licence. (4.12)
 - iv. **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. (4.14)
 - v. **Working with the Police** - action taken by the licensing authority as a result of information received from the police should be fed-back to the police.
 - vi. **Sharing licensing information with other licensing authorities** - 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. (4.20)
 - vii. **Overseas convictions** - 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. (4.35)
 - viii. **Vehicle proprietors** - Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually. (7.2)
 - ix. **Private hire vehicle operators** – Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually. (8.2)
 - x. **Booking and dispatch staff** - 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. (8.8)
- c) **Multi-agency Safeguarding Hub (MASH)** - 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). (4.28)
- d) **Complaints against licensees** - All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. (4.29)
- e) **Training decision makers** - 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. (5.3)

- f) **Decision making** - 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. (5.11)
- g) **Fit and proper test** – Defined in the statutory guidance as: *“Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?”*

If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.
- h) **Criminal convictions and rehabilitation** - Annexed to the statutory guidance document is the Department’s recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions) (5.16)
- i) **Safeguarding awareness** - 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. (6.6)
- j) **In-vehicle visual and audio recording (CCTV)** - 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.
- k) **Joint authorisation of enforcement officers** - 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. (9.2)

3. Next steps

Changing licensing policy and requirements

The statutory guidance states that Hackney Carriage and Private Hire licensing policies and procedures should be reviewed to reflect the measures contained in the new statutory guidance.

A review of the authority’s licensing policy will be undertaken to align the policy with the statutory guidance. Much of what is proposed in the guidance has already been adopted by Cheltenham Borough Council however.

To make the statutory guidance most effective, the Gloucestershire Licensing Officer’s Group (GLOG) is working on adopting a common licensing approach based on the statutory guidance. This will ensure that there is a basic and common approach to safeguarding throughout the county. Individual authorities will retain the discretion to set their own policies to ensure that local standards are not lost.

Clearly a review of the Hackney Carriage and Private Hire licensing policy will require Member input and oversight. Initial work by officers will align the licensing policy with the statutory guidance and Members will be engaged prior to any formal consultation on policy changes.

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