

Cheltenham Borough Council
Cabinet – 14 September 2021

Adoption of Common Licensing Standards for Taxi and Private Hire Licensing

Accountable member	Councillor Martin Horwood, Cabinet Member Customer & Regulatory Services
Accountable officer	Mike Redman, Director of Environment
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	<p>The Department for Transport (DfT) published its Statutory Taxi and Private Hire Vehicle Standards in July 2020 with a strong focus to protect all passengers and users of taxis and private hire transport services. The statutory guidance makes it clear that the Government expects the recommendations contained within it to be implemented unless there is a compelling local reason not to do so.</p> <p>In light of the DfT statutory standards and requirements contained within it, the licensing authorities in Gloucestershire have collectively undertaken a review of their hackney carriage and private hire licensing policies. As a result of this combined effort, the licensing authorities in Gloucestershire have drafted proposed common licensing standards for the county based on the requirements in the statutory standards document.</p> <p>The draft common taxi and private hire licensing standards will mean that the same high standards will apply anywhere in the county, based on national guidance and best practice to promote public safety and protection.</p> <p>Consultation has been undertaken and this report sets out the outcome of this and recommends adoption of these common standards by Cabinet.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none">1. Note the consultation feedback;2. Adopt the Common Licensing Standards for Taxi and Private Hire Licensing attached at Appendix 2 of this report; and3. Delegate authority to the Licensing Team Leader to put in place the practical measures to implement the common licensing standards policy.

Financial implications	No financial implications arising from this report. Contact officer: Andy Taylor, Andrew.Taylor@cheltenham.gov.uk
Legal implications	The Statutory Taxi and Private Hire Standards (“Standards”) have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017. Section 177(4) of the Policing and Crime Act 2017 states 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. Failure to adopt these Standards could leave the Council open to legal challenge. There are data protection implications arising from the adoption of the Standards, particularly around information sharing between licensing authorities and third parties. It is recommended that the relevant privacy notices and associated documents are reviewed and updated as necessary to reflect the proposed changes. Contact officer: roslyn.meenagh@onelegal.org.uk, 01684 272 207
HR implications (including learning and organisational development)	No direct HR implications arising from this report. Contact officer: Clare Jones, clare.jones@publicagroup.uk
Key risks	As identified in Appendix 1.
Corporate and community plan Implications	
Environmental and climate change implications	N/A
Property/Asset Implications	N/A Contact officer: Dominic.Stead@cheltenham.gov.uk

1. Background

- 1.1** The Department for Transport (DfT) published its Statutory Taxi and Private Hire Vehicle Standards in July 2020 with a strong focus to protect all passengers and users of taxis and private hire transport services.
- 1.2** The statutory guidance makes it clear that the Government expects the recommendations contained within it to be implemented unless there is a compelling local reason not to. Furthermore, it is noted that the statutory standards document sets out a framework of policies that, under section 177(4), licensing authorities “must have regard” to when exercising their licensing and safeguarding functions.
- 1.3** In light of the DfT statutory standards and requirements contained within it, the licensing authorities in Gloucestershire have collectively undertaken a review of their hackney carriage and private hire licensing policies. As a result of this combined effort, the licensing authorities in Gloucestershire have drafted proposed common licensing standards for the county based on the requirements in the statutory standards document.
- 1.4** The DfT statutory standards principally relate to driver and private hire operator licensing. As such, areas not in scope of the DfT statutory standards, for example vehicle fitness and licensing standards, are not included in the consultation and remain unaffected by the draft common licensing standards.
- 1.5** The only exception to local vehicle fitness and licensing standards covered by the statutory guidance is CCTV. However, further work is required on this and a separate consultation will be undertaken on the statutory guidance’s requirements with regards to CCTV.
- 1.6** At the moment, each of the six licensing authorities in Gloucestershire decide on their own taxi and private hire licensing standards and policies. The practical implication of this is six different interpretations on the question of “fit and proper” person and other standards designed to protect the public.
- 1.7** The draft common taxi and private hire licensing standards will mean that the same high standards will apply to anywhere in the county, based on national guidance and best practice to promote public safety, protection and, as a secondary consideration, reduce unnecessary bureaucracy for businesses that operate across district boundaries.

2. Common Licensing Standards for Taxi and Private Hire Licensing

- 2.1** As mentioned above, the DfT statutory standards principally relate to driver and private hire operator licensing.
- 2.2** A copy of the draft common standards is attached at appendix 2 of this report.
- 2.3** A number of important aspects to promote public safety have been included in the draft common licensing standards. These are:
 - 2.3.1** A definitive definition of “fit and proper” and assessment criteria to assist Members when making decisions;
 - 2.3.2** Requirements for every licensed driver in Cheltenham, and the county, to be subscribed to the DBS update service which will also allow officers to undertake more frequent bulk checking of licence holders against DBS records;
 - 2.3.3** An updated “Relevance of Convictions Policy” taking into account national best practice from both the DfT and Institute of Licensing;

- 2.3.4 An updated and common “Enforcement and Complaints Policy”;
- 2.3.5 Criminality checks for vehicle proprietors;
- 2.3.6 Criminality checks for private hire vehicle operators; and
- 2.3.7 Requirements on licensed private hire operator(s) ensuring that all booking and dispatch staff have had a basic DBS check.

3. Phase 2 of Common Licensing Standards

- 3.1 Phase 1 of the common licensing standards focussed principally on driver licensing. However, the statutory guidance includes a number of other issues yet to be fully addressed including consideration of CCTV in licensed vehicles, a more structured and formal approach to mandatory safeguarding and equality training and a common procedure(s) for immediate suspension and revocation of licences.
- 3.2 The outstanding work will be picked up by the county senior licensing group as part of a second phase of work and will be subject to separate consultation and decision making.

4. Cheltenham Supplementary Consultation

- 4.1 In addition to the common standards consultation, the opportunity will also be taken to consult on a number of local policy changes not in scope of the DfT statutory guidance.
- 4.2 The supplementary consultation is included in the consultation document at appendix 2 for reference.

5. Reasons for recommendations

- 5.1 To ensure the authority’s licensing standards in relation to taxi and private hire services are based on national best practice and take into account the national statutory guidance.

6. Alternative options considered

- 6.1 Cabinet can decide not to approve the draft common licensing policy for consultation. This is however not advisable because the authority will be unable to adequately and safely fulfil its statutory taxi and private hire licensing duties.

7. How this initiative contributes to the corporate plan

- 7.1 This consultation seeks to ensure the highest possible public safety standards in taxi and private hire licensing. As such, this work and report cut across a number of corporate priorities, including delivering services to meet the needs of residents and communities and meeting the opportunities and challenges.

8. Consultation and feedback

- 8.1 Consultation was undertaken for 12 weeks from Tuesday 13 April 2021 to Tuesday 6 July 2021.
- 8.2 Two consultation responses were received, both in support of the common licensing standards. The consultation feedback is attached at appendix 3.

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Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Draft Common Licensing Standards for Taxi and Private Hire Licensing
Background information	<ol style="list-style-type: none"> 1. DfT statutory taxi and private hire vehicle standards 2. Licensing Sub-Committee - Miscellaneous - Wednesday, 7th July, 2021 6.00 pm 3. <u>Decision to approve consultation on the draft common licensing standards for taxi and private hire licensing</u>

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the authority is not willing to consider common licensing standards for drivers then there is a risk that the authority will not be able to adhere to the requirements of the new statutory guidance.	Director of Environment	April 21	2	3	6	Accept	Approve the consultation		Licensing Team Leader	
	If the authority is not willing to consider common licensing standards for drivers then there is a risk that different standards might pose a public safety risk.	Director of Environment	April 21	3	2	6	Accept	Approve the consultation		Licensing Team Leader	

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6
(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close