

HIGH PEAK BOROUGH COUNCIL

Report to Licensing Committee

28 January 2021

TITLE:	Statutory Taxi and Private Hire Vehicle Standards 2020
EXECUTIVE COUNCILLOR:	Councillor Sloman – Executive Councillor for Housing and Licensing
CONTACT OFFICER:	Alicia Patterson - Head of Environmental Health
WARDS INVOLVED:	All Wards

Appendices Attached – None

1. Reason for the Report

- 1.1 To advise the Committee of the revised statutory guidance in relation to Taxi and Private Hire vehicles and to recommend amendments to the Council's current Policy to reflect this guidance.

2. Recommendation

- 2.1 That the Committee notes the contents of the report and approves the recommendations in relation to the enforcement of the Council's Taxi and Private Hire Licensing Policy 2016 and amends the Policy accordingly where proposed.

3. Executive Summary

- 3.1 The Department for Transport (DfT) issued Statutory Standards for Taxi and Private Hire Vehicles in July 2020. The focus in these standards is on protecting children and vulnerable adults, but all passengers will benefit from the recommendations in the report.
- 3.2 The Statutory Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the DfT Best Practice Guidance and includes extensive advice on the following matters in particular: checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaces the Notifiable Occupations Scheme).

- 3.3 The Statutory Standards take precedence over all other DfT Best Practice Guidance and will come into effect in January 2021. To be clear, in law this is actually statutory Guidance although it is titled as 'standards' – the standards in the document effectively revise and update the 2010 Best Practice Guidance issued by the DfT. The DfT makes it very clear, however, that licensing authorities with responsibility for Hackney Carriage and Private Hire Licensing must follow this guidance.
- 3.4 The Statutory Standards are published under section 177(1) of the Policing and Crime Act 2017 and set out a framework of policies that licensing authorities must have regard to when exercising their functions. 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. The DfT, therefore, expects these recommendations to be implemented unless there is a compelling local reason not to do so.
- 3.5 This report looks at the substantive recommendations of the Statutory Standards in comparison to the Council's existing Policy which was agreed in 2016 and offers recommendations where appropriate to improve the delivery of functions under this Policy. It should be noted with some satisfaction that the Council's 2016 Policy overall is broadly compliant with all the DfT recommendations, and so it is not necessary at this point to revise or update the Policy itself but simply to strengthen the operational aspects and enforcement provisions that are already in place.

4. **Implications**

- 4.1 Community Safety - (Crime and Disorder Act 1998)
None.
- 4.2 Workforce
None.
- 4.3 Equality and Diversity/Equality Impact Assessment
This report has been prepared in accordance with the Council's Diversity and Equalities Policies.
- 4.4 Financial Considerations
None.
- 4.5 Legal
The current Policy can be updated relatively simply as the proposed changes do not materially alter the substance of the Council's policy such that re-consultation is necessary, although the changes will be drawn to the attention of licencees through the Council's website. The policy itself allows the Head of Regulatory Services to make minor modifications to reflect any change in legislation or case law or to promote efficient administration of the licensing function without consultation if appropriate.

- 4.6 Climate Change
None.
- 4.7 Consultation
As covered within the report.
- 4.8 Risk Assessment
As covered within the report.

Mark Trillo
Executive Director (People) and Monitoring Officer

**Web Links and
Background Papers**

Location

Contact details

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904369/statutory-taxi-and-private-hire-vehicle-standards-english-28-07-2020.pdf

Licensing Section

Mike Towers
Senior Officer (Housing,
Public Health & Licensing)
01298 28400 x4400

5. Detail

- 5.1 The Council's Taxi and Private Hire Vehicle Licensing Policy agreed in 2016 was developed with the specific intention of recognising the significant impact of regional failures around the safeguarding of children and vulnerable adults, and as a result incorporated many provisions that at the time were only the subject of reports and studies but were felt to be of significance and likely to be required by government at some point in the near future. As a result, the government's statutory guidance contained in the Statutory Taxi and Private Hire Vehicles Standards 2020 ("Statutory Standards") serve to reinforce the decisions taken by the Council when approving the Council's current Policy and justify the strong approach taken to licensing compliance.
- 5.2 The Statutory Standards' primary focus is on protecting children and vulnerable adults, and so is of most relevance to the licensing of Drivers and Operators in terms of the standards we expect and the conditions that they must comply with. This report, therefore, focuses on the main recommendations laid out in the Statutory Standards and relates these directly to the relevant parts of the Council's 2016 Policy. Where there

is opportunity to do so, this report makes recommendations for the strengthening of the interpretation and enforcement of the 2016 Policy based on the Statutory Standards.

- 5.3 The first section of the Statutory Standards considers licensing policies and recommends that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire licensing, including the relevance of convictions, a 'fit and proper person' test, licence conditions and vehicle standards. The Council's 2016 Policy does all of this and is publicly available on the Taxi Licensing pages of the Council's website. The Statutory Standards also refer to the licensing authority having a robust whistleblowing policy, so that effective internal procedures are in place for staff to raise concerns about the application of the licensing authority's policies and for any concerns to be dealt with openly and fairly. These elements are the basis of the Council's Whistleblowing Policy approved in May 2016.
- 5.4 The next section of the Statutory Standards considers how the licensing authority should gather as much information as possible when making a decision on whether to grant a licence and in order to meet their ongoing obligation to ensure that the licensee remains suitable to hold a licence. A number of elements are considered:
 - 5.4.1 Requiring new and existing drivers to present an Enhanced Disclosure and Barring Service (DBS) Certificate at regular intervals, showing the current position regarding convictions and individuals barred from working in regulated activity with children or adults. It is recommended that all licensed drivers register with the DBS on-line checking service so that the status of any driver's Certificate can be checked at any time (with the driver's consent). This is already a requirement in the Council's Policy and checks are currently carried out every 3 years. The Statutory Standards state that checks should be carried out every 6 months and so it is recommended that over the next 3 years (the length of the driver licence period) all drivers are required, on submission of their next DBS Certificate, to sign up to the DBS on-line checking service. There is provision for this already in the 2016 Policy but individuals have not always taken the opportunity to register as there is a limited time frame for registration during and after the DBS Application.
 - 5.4.2 Recommending that the licensing authority establishes close links with the Police to ensure effective and efficient information sharing procedures and protocols are in place. Common Law Police Disclosure ensures that, where there is a public protection risk, the Police will pass information to the regulatory body at the point of arrest or charge rather than on conviction, to allow them to act quickly to mitigate any danger. The licensing service does not currently have a formal information sharing protocol with Derbyshire Police and so it is recommended that steps are taken to engage with the relevant senior Police Officers in the

development of such a protocol.

- 5.4.3 There should be a requirement in the Driver Licence conditions for drivers to self-report offences within 48 hours of an arrest and release, charge or conviction for sexual offences, dishonesty or violence, or any motoring offence. This is already a requirement of the 2016 Policy and driver code of conduct.
- 5.4.4 All licensing authorities should have a robust system for recording complaints against licensed drivers and operators. The Licensing Service already has a complaints procedure and investigation protocol and a means of analysing trends in complaints. The Statutory Standards advise that ways to make a complaint to the licensing authority should be displayed in all licensed vehicles. This is not currently implemented and so it is recommended that all vehicle renewal documentation sent to the vehicle operator includes a Notice on how to complain to be displayed in the vehicle, which states the vehicle licence number and how to contact the licensing team.
- 5.5 The Statutory Standards go on to look at decision-making and the regulatory structure and propose that Councils operate with a Regulatory Committee that meets periodically to determine matters relating to Taxi and Private Hire licensing. It states that this Regulatory Committee should be modelled on the Committee that deals with alcohol and gambling licences.
- 5.6 The Statutory Standards include as an Annex the DfT recommendations on the assessment of previous convictions in the determination of the suitability of taxi and private hire vehicle licensees. This has been compared to our current Relevance of Convictions Assessment incorporated into the 2016 Policy at Appendix I. Whilst broadly compliant, the DfT Recommendations do recommend for some offences a longer period that should elapse after the completion of the sentence imposed:
 - 5.6.1 Dishonesty – the 2016 Policy states that an applicant with any conviction involving dishonesty will not be granted a licence until at least 5 years have elapsed since the completion of any sentence imposed. The DfT recommendation is a minimum of 7 years.
 - 5.6.2 Sexual Offences – the 2016 Policy states that applicants with a conviction for sexual offences against a child or young person will not be licensed, but persons who are convicted of an indecency offence will not be granted a licence until at least 10 years have elapsed since the completion of any sentence imposed. The DfT recommendation is that where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. The same applies to any applicant currently on the Sex Offenders Register or on any barred list.

- 5.6.3 Violence – the 2016 Policy states a period of 10 years from the completion of any sentence for a conviction for a serious violence offence and 5 years for a lesser violence offence. The DfT recommendation is that where an applicant has a conviction for any offence of violence, or connected to any offence of violence, the period should be 10 years in all cases.
- 5.6.4 Drugs – the 2016 Policy states a conviction-free period of at least 3 years for an applicant with a single drug offence. The DfT recommends a 5 year period for any conviction for the possession of drugs or related to the possession of drugs.
- 5.6.5 Drink/Drug Driving – the 2016 Policy states a conviction-free period of 3 years for a drink driving offence with no disqualification. The DfT recommends a minimum of 7 years for any offence.
- 5.6.6 Other Offences – The DfT makes recommendations for two further convictions – possession of a weapon and using a hand-held device whilst driving. These are not currently listed in the 2016 Policy under relevance of convictions. Possession of a weapon carries a conviction-free period of a minimum of seven years since the completion of any sentence, and using a hand-held device carries a conviction-free period of at least 5 years since the completion of any sentence or driving ban imposed.

It is recommended that the 2016 Relevance of Convictions Assessment is updated to reflect the longer conviction-free periods specified by the DfT. This is an Appendix to the Policy and so can be updated without the need to consult on the whole Policy.

- 5.7 The Statutory Standards recommend that the licensing authority provide safeguarding advice, guidance and training to drivers which includes 'County Lines' exploitation. The licensing service already requires attendance at an approved safeguarding course which includes County Lines training. This has previously been provided by an external trainer delivering a course to all existing drivers and is now delivered in-house to new drivers. The Statutory Standards also recommend that the licensing authority has a test of driver proficiency that covers both oral and written English language skills. This is already included in the Knowledge Test that all our applicants are required to sit as part of the application process.
- 5.8 The next section of the Statutory Standards covers vehicle licensing. There are two main recommendations:
 - 5.8.1 Criminality checks for vehicle proprietors and operators – the Statutory Standards recommend an annual Basic Disclosure for operators who are not already licensed as drivers. The licensing service currently only requires a Basic Certificate for non-drivers on renewal, which can be up to 5 years apart. It is recommended that non-driver operators are required to submit a Basic Disclosure

every year and the 2016 Policy does not specify otherwise. There are very few operators who are not drivers as well, so it is not particularly onerous to deal with these as the Operator licences come up for renewal.

5.8.2 CCTV – The Statutory Standards recommend that licensing authorities keep under review any local justification for the introduction of CCTV in Taxi and Private Hire Vehicles, but do not recommend a blanket imposition of CCTV in all vehicles. The 2016 Policy contains the provision for the Council to introduce CCTV as a requirement in Appendix L, so no action is specifically required at this time other than to agree to review the introduction of Appendix L periodically or when local intelligence suggests that introduction of CCTV will bring significant local community benefit and/or driver security.

5.9 The Statutory Standards also make reference to the National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3) to facilitate information sharing between authorities. The Register is administered by the National Anti-Fraud Network (NAFN). Licensing Authorities are encouraged to subscribe to the Register and whilst this does not require a policy amendment as such, it is recommended that the Council signs up to the Register under our existing subscription to the NAFN.

5.10 In all other respects, the 2016 Policy is at least equal to and in some areas actually exceeds the expectations of the Statutory Standards. As an example, the 2016 Policy introduced compulsory professional training for all drivers to NVQ or BTEC level 2 standard. This is not expressly referred to in the Statutory Standards. Overall, the Council's 2016 Policy holds up exceedingly well against the Statutory Standards, and that means that the Council does not have to go down the long and difficult road of revising and consulting on an updated Policy at this particular time.