



REPORT TO:	LICENSING COMMITTEE
DATE:	15 MARCH 2022
SUBJECT:	DEPARTMENT FOR TRANSPORT - STATUTORY TAXI AND PRIVATE HIRE VEHICLE STANDARDS
KEY DECISION:	N/A
PORTFOLIO HOLDER:	COUNCILLOR PAUL SKINNER
REPORT AUTHOR:	SHAUN SHARP
WARD(S) AFFECTED:	ALL
EXEMPT REPORT?	NO

## **SUMMARY**

Under the terms of the Policing and Crime Act 2017 the Department for Transport (DfT) has introduced minimum licensing standards for hackney carriages (taxis) and private hire vehicles. The standards were published in July 2020. The Council has a legal duty to have regard to the minimum standards when undertaking its taxi and private hire vehicle licensing function.

Following a Licensing Committee held on the 12 October 2021 Members requested that working groups be set up to discuss the statutory standards to enable officers to work towards updating the Hackney Carriage and Private Hire Driver and Proprietor Policies. The working groups met on the 10 December 2021 and 25 January 2022.

This report includes all relevant areas discussed at these working groups which have now culminated in the Hackney Carriage and Private Hire Driver and Proprietors Policies to be drafted.

## **RECOMMENDATIONS**

1. That the Committee consider the following report and approve recommendations 1 to 5.

## REASONS FOR RECOMMENDATIONS

The statutory minimum standards set out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable. Government advice is that Licensing Authorities must work to ensure that, above all else, the taxi and private hire vehicle services the public use are safe. The Government fully expects Licensing Authorities to implement the measures, within the standards, as soon as possible.

## OTHER OPTIONS CONSIDERED

Under the terms of the Policing and Crime Act 2017 the Department of Transport has introduced minimum licensing standards for taxis and private hire vehicles. This Council has a legal duty to review its licensing standards in line with the new legal minimum standards. There is no other option but to undertake the review of the Council's licensing standards.

## REPORT

- 1.1** Under the terms of Section 177 of the Policing and Crime Act 2017 the Department for Transport (DfT) has introduced minimum licensing standards for hackney carriages (taxis) and private hire vehicles. A copy of the document can be found via the link below:

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

The document sets a minimum standard for licensing but Licensing Authorities can raise the bar at a local level where it is considered appropriate or necessary to do so. Hard copies of the Statutory Standards can be provided to Members on request.

- 1.2** The minimum licensing standards were published on 21 July 2020 and became immediately operative. Licensing Authorities have a legal duty to have regard to the standards – this means that the Authority must take the standards into account and must give clear reasons for any departure from them. Departure must be the exception rather than the norm.

## 2. CCTV IN LICENSED VEHICLES

- 2.1** The Licensing Standards document indicates that the Licensing Authority should undertake an investigation on the proportionality of CCTV within licensed vehicles. In particular, the document states the following:

*“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.”*

- 2.2** Currently the council allows the voluntary fitting of CCTV in licensed vehicles with no council imposed controls. The onus is on the driver/proprietor to ensure that the installation, signage and running of the CCTV system complies with the legislative

requirements of the Information Commissioner's CCTV Code of Practice and any other relevant legislation and/or guidance.

- 2.3 On the 15 December 2021 a four week consultation exercise took place with regard to CCTV in licensed vehicles. The consultation period ended on the 12 January 2022.
- 2.4 The exercise was performed to seek the views of residents, businesses and the taxi trade to enable a decision to be made as to whether the installation of CCTV and electronic equipment in vehicles would be beneficial for Boston.
- 2.5 The results of this consultation can be found at **APPENDIX 1**.
- 2.6 Following the results of the consultation, licensing officers sought advice from the Data Protection Officer. At present no conclusive advice has been given on the possible Data Protection burdens on the local authority.

#### **RECOMMENDATION**

- 1) To continue with the current procedure of voluntary fitting of CCTV in licensed vehicles with no council imposed controls with a view to further extensive research being undertaken prior to any policy change.

### **3. WAYS TO MAKE A COMPLAINT TO BE DISPLAYED IN LICENSED VEHICLES**

- 3.1 The DfT Standards recommend that information is made available to the public on how to complain directly to the Council about a licensed driver, vehicle or operator. The standards state:

*“The provision of a clear, simple and well-published process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity. To ensure that passengers know who to complain to, Licensing Authorities should produce guidance for passengers on making complaints directly to the Licensing Authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles.”*

- 3.2 A specific complaints page within the taxi licensing section of the Council's website is available. This can be found at:

<https://www.mybostonuk.com/licensing/taxi-licensing/complaints-appreciation-form/>

- 3.3 On the 15 December a four week consultation began and this was sent out to all current licensed taxi and private hire drivers welcoming their views on how to communicate the complaints procedure to passengers. The consultation ended on the 12 January 2022.
- 3.4 There was one response to the consultation and this is as follows:-

**“I do not support the idea of displaying the complaints procedure in all licensed vehicles.”**

## RECOMMENDATION

- 2) As no further views/suggestions have been received by the taxi trade, it is recommended that Members agree to the compulsory displaying of complaints information in licensed vehicles.

## OTHER OPTION

1. Members may be minded to agree to no sticker being displayed in a licensed vehicle but must give good reason for their decision.
4. **NATIONAL REGISTER OF TAXI LICENCE REVOCATIONS AND REFUSALS (NR3)**
  - 4.1 Licensing Authorities are required to satisfy themselves that those holding Hackney Carriage and Private Hire Vehicle driver licences are “fit and proper” to do so. This is done firstly during the determination of an application for a licence and then at any time during the currency of a licence. If drivers do not disclose information about a previous revocation or refusal of a licence, there is often no way for the Licensing Authority to find this information out. This means that vital intelligence about an applicant’s past behaviour is being missed and an individual might be able to get a new licence in another area, despite having had their licence revoked elsewhere.
  - 4.2 In response to this, the Local Government Association commissioned NAFN Data and Intelligence Services to develop a national register of hackney carriage and private hire vehicle driver licence refusals and revocations which is called the “National Register of Refusals and Revocations” or NR3. The register allows the licensing authority to record details of where a hackney carriage or private hire driver’s licence has been refused or revoked and allows the licensing authority to check new applicants against the register.
  - 4.3 Boston Borough Council has been a member of NAFN for several years with respect to council tax and housing benefit checks and licensing officers have now registered with NAFN in respect to hackney carriage/private hire vehicle drivers.
  - 4.4 A Policy has been drafted in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3. To ensure the council is complying with all necessary steps relating to data protection and other laws in regard to NR3, licensing officers consulted with the Data Protection Officer.
  - 4.5 Because of the complicated and sensitive nature around data protection, human rights, data retention etc the Data Protection Officer has asked for more time to look into the contents of the Policy.

## RECOMMENDATION

- 3) That Members agree to postpone making a decision on this with a view to it being brought back to a future Licensing Committee when further information/advice on Data Protection is available.

## **5. AMENDMENT TO THE WHEELCHAIR ACCESSIBLE POLICY**

- 5.1 In September 2017 the Council's Regulatory & Appeals Committee passed a resolution to adopt a Wheelchair Accessible Vehicle Policy. This Policy has been in place since that date and licensing officers would like to request an amendment to this Policy.
- 5.2 A copy of the Wheelchair Accessible Vehicle Policy is attached as **APPENDIX 2** with the amendment worded in red.

### **RECOMMENDATION**

- 4) That Members agree the amendment to the Wheelchair Accessible Policy.

## **6. PROPOSED UPDATES TO THE BOSTON BOROUGH COUNCIL'S HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER AND VEHICLE POLICIES**

- 6.1 At a meeting of the working group held on the 25 January 2022, Members discussed the amendments proposed by licensing officers to the Hackney Carriage and Private Hire Driver and Proprietors Policies in relation to the DfT Statutory Standards.
- 6.2 Following the working group meeting, licensing officers have re-drafted the Policies and any amendments made are highlighted in red within the attached documents as shown in **APPENDICES 3 and 4**.

### **RECOMMENDATION**

- 5) That Members note the amendments identified in red within both the Hackney Carriage and Private Hire Drivers and Proprietors Policies and agree to a four week public consultation. The results of the consultation to be reported back to the next Licensing Committee for further discussion and agreement.

## **CONCLUSION**

The Statutory Standards set out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable. Government advice is that Licensing Authorities must work to ensure that, above all else, the taxi and private hire vehicle services the public use are safe.

## **EXPECTED BENEFITS TO THE PARTNERSHIP**

By working together as a partnership the three sovereign councils benefit from the learning and experience of each other and also the trade benefits from a consistency and uniformity of approach from the Licensing service across the sub-region.

## **IMPLICATIONS**

### **SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP**

Whilst the policies that Members are seeking to approve are Boston policies, Members can be assured that collaboration with other Council's in the Partnership has taken place to ensure, as far

as possible, that there is consistency in the policy proposals, whilst respecting the unique character of each locality, and best practice has been employed in the development of the policy proposals.

## **CORPORATE PRIORITIES**

This work contributes to two Priority areas in the Boston Borough Council Corporate Strategy 2020 to 2024; Priority One. **People Focussed:** Make Boston as healthy and safe place to work. Priority Four. **Delivering high quality services and maximising use of technology to support residents:** Make better use of technology and data to reduce costs and improve performance and efficiency.

## **STAFFING**

There are no direct implications in terms of staffing, however; the alignment and development of policy so that it is fit for purpose will help the Council to become more efficient in terms of processing Licences.

## **DATA PROTECTION**

Consultation has taken place with the Data Protection Officer and more advice is awaited with respect to CCTV in Licensed Vehicles and NR3.

## **FINANCIAL**

This policy review is being undertaken as part of the normal duties carried out by the Licensing Team with no additional costs involved.

## **RISK MANAGEMENT**

There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters. There is also the risk of judicial review if the Council's licensing policy and procedures are found not to comply with the requirements of licensing legislation and the associated regulations and guidance.

## **STAKEHOLDER / CONSULTATION / TIMESCALES**

Portfolio Holder – Councillor Paul Skinner

Data Protection Officer – Richard Steele

## **REPUTATION**

There is a risk that the Council's reputation could be damaged if Licensing Policies are not up to date and consistent with national guidance and standards. This paper seeks to bring the Council's policies into line with the latest national requirements.

## **CONTRACTS**

None

## **CRIME AND DISORDER**

**Crime & Disorder Implications:** The DfT minimum licensing standards contain specific and detailed implications with respect to crime and disorder. The Council has a duty to provide the public with a safe and secure taxi and private hire vehicle service within the borough.

## **EQUALITY AND DIVERSITY / HUMAN RIGHTS / SAFEGUARDING**

**Equality Implications:** This report seeks to bring the Council’s policies and procedures up to date and into line with the latest equality and diversity standards.

**Human Rights:** The licensing authority must ensure that its decisions and policies can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action / policy proportionate to what it wishes to achieve, or, colloquially do the ends justify the means.

**Safeguarding Implications:** The DfT minimum licensing standards contain specific and detailed safeguarding implications – which relate to both children and vulnerable adults. The Council has a duty to provide the public with a safe and secure taxi and private hire vehicle service within the Borough that is consistent with prevailing national guidance and standards.

## **HEALTH AND WELL BEING**

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the borough’s residents, visitors, and business community. Effective implementation of a fair, proportionate and consistent licensing regime should help to promote the local economy.

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

There are no specific policy adjustments that will impact either positively or negatively with our climate change and environmental implications. The work plan for this committee 2022/23 will propose policy changes that seek to improve the air quality in the local area by reducing harmful vehicle emissions.

## **ACRONYMS**

DfT – Department for Transport

NR3 - National Register of Refusals and Revocations

<b>APPENDICES</b>	
Appendices are listed below and attached to the back of the report: -	
APPENDIX 1	CCTV Consultation results
APPENDIX 2	Wheelchair Accessible Vehicle Policy
APPENDIX 3	Draft - A Guide for Hackney Carriage Drivers and Proprietors
APPENDIX 4	Draft – A Guide for Private Hire Drivers, Proprietors and Operators

<b>CHRONOLOGICAL HISTORY OF THIS REPORT</b>
Licensing Committee – 12 October 2021
Licensing Working Group – 10 December 2021
Licensing Working Group – 25 January 2022

**BACKGROUND PAPERS**

Background papers used in the production of this report are listed below: -

<b>Document title</b>	<b>Where the document can be viewed</b>
Department of Transport – Statutory Taxi and Private Hire Vehicle Standards – July 2020	<a href="https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards">https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards</a>
Policing and Crime Act 2017 (Section 177)	<a href="https://www.legislation.gov.uk/ukpga/2017/3/section/177">https://www.legislation.gov.uk/ukpga/2017/3/section/177</a>

**REPORT APPROVAL**

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