

# Regulatory Committee

**Wednesday 20 March 2019 7.30pm\***

**\*after the Licensing Sub-Committee (Hearing)**

**Council Chamber  
Runnymede Civic Centre, Addlestone**

## Members of the Committee

Councillors Mrs J Gracey (Chairman), S A Lewis (Vice-Chairman), D A Cotty, Mrs M T Harnden and Ms A Shepperdson.

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

## A G E N D A

### Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C Pinnock, Democratic Services, Law and Governance Business Centre, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: [clare.pinnock@runnymede.gov.uk](mailto:clare.pinnock@runnymede.gov.uk))**.
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The Chairman will make the final decision on all matters of dispute in regard to the use of social media, audio-recording, photography and filming in the Committee meeting.

## **LIST OF MATTERS FOR CONSIDERATION**

### **PART I**

#### **Matters in respect of which reports have been made available for public inspection**

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### **PART II**

#### **Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

- a) Exempt Information  
(No reports to be considered under this heading)
- b) Confidential Information  
(No reports to be considered under this heading)

**1. FIRE PRECAUTIONS**

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

**2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP**

**3. MINUTES**

To confirm and sign as a correct record, the Minutes of the meeting held on 13 November 2018, previously circulated to all Members of the Council via email in December 2018.

**4. APOLOGIES FOR ABSENCE**

**5. DECLARATIONS OF INTEREST**

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Democratic Services Officer at the start of the meeting. A supply of the form will also be available from the Democratic Services Officer at meetings.

Members are reminded that a non pecuniary interest includes their appointment by the Council as the Council's representative to an outside body and that this should be declared as should their membership of an outside body in their private capacity as a director, trustee, committee member or in another position of influence thereon.

Members are advised to contact the Council's Legal section prior to the meeting if they wish to seek advice on a potential interest.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is a disclosable pecuniary interest or if the interest could reasonably be regarded as so significant as to prejudice the Member's judgement of the public interest.

**6. STATUTORY GUIDANCE CONSULTATION (ENVIRONMENTAL SERVICES – LICENSING)**

<p><b>Synopsis of report:</b></p> <p><b>To inform the Committee of the Department of Transport's Consultation on Statutory Guidance for Hackney Carriage and PHV licensing.</b></p>
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<p><b>Recommendation(s):</b></p> <p><b>None. This report is for information.</b></p>
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**1. Context of report**

- 1.1 In recent years the hackney carriage and PHV vehicle (PHV) industry has been the subject of intense scrutiny as a result of a number of high profile cases involving hackney carriage or PHV drivers.
- 1.2 Ensuring that hackney carriage and PHV drivers are properly assessed against robust standards regardless of where they are licensed is seen as an essential element for improving public safety.

1.3 The introduction of statutory guidance on standards has been considered by the Government and is now out for consultation.

## 2. **Report**

2.1 The Government has recognised the wide variations in the application of the 'fit and proper' test and is seeking to address some of the most pressing issues by introducing statutory guidance.

2.2 The consultation comprises 4 documents. These are attached as:

Appendix 'A' – Department of Transport briefing paper

Appendix 'B' – Impact assessment and evidence base

Appendix 'C' – Proposed statutory guidance

Appendix 'D' – Consultation response paper

This consultation will run for 10 weeks, from 12 February 2019 until 22 April 2019.

2.3 All Runnymede Councillors have been made aware of the consultation as have all drivers and operators. While Members are free to make their own individual responses to the consultation, the Council's official response will be prepared by Officers and circulated to Members for information, prior to submission.

2.4 The consultation has also been circulated to a wider audience via the Council's website and by making local residents groups, Royal Holloway University, the Police and other interested parties aware of its existence.

## 3. **Policy framework implications**

3.1 There may be a need to make changes to Runnymede's Hackney Carriage and Private Hire Licensing Policy as a result of the introduction of statutory guidance. A report would be brought to this Committee should that be the case.

## 4. **Legal Implications**

4.1 There are no legal implications identified in this report.

## 5. **Equality implications**

5.1 The Government has undertaken an equality screening assessment (Appendix 'B'). These recommendations, if adopted as proposed, will place a burden on local licensing authorities, drivers and/or owners of taxis and PHVs and PHV operators regardless of any protected characteristics these individuals might have. While it is anticipated that there will be variations in the people affected by these recommendations, this is a function of the nature of those within the taxi and PHV sector (drivers, vehicles owners, PHV operators and their staff) there is no evidence to suggest that it will affect any one group of persons with protected characteristics within this population disproportionately at a national level.

5.2 It is expected that the recommendations, if adopted, would be applied equitably but this is the responsibility of local authorities and could be subject to challenge. It is expected that both drivers and passengers will benefit from a safer environment in which to travel and that there will be an increase user confidence through higher passenger demand from more vulnerable groups such as the elderly or those with disabilities.

6. **Conclusion**

- 6.1 The introduction of statutory guidance would be a very positive move as it would set Standards countrywide, the opportunity to take part in the consultation is very welcome.

**(For information)**

**Background papers**

Consultation paper as appended to this report



Department  
for Transport

# Taxi and Private Hire Vehicle Licensing: Protecting Users

## Consultation on Statutory Guidance for Licensing Authorities

**Moving Britain Ahead**

DfT-2019-01

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Department for Transport  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR  
Telephone 0300 330 3000  
Website [www.gov.uk/dft](http://www.gov.uk/dft)  
General enquiries: <https://forms.dft.gov.uk>



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# Foreword

In recent years the taxi and private hire vehicle (PHV) industry has been subject of intense scrutiny as a result of failings in taxi and PHV licensing. Some authorities failed to ensure that individuals were 'fit and proper' to be issued a taxi or PHV licence and failed to take action when concerns were raised about the involvement of licensees in the abuse and exploitation of some of the most vulnerable in our society.

Above all else the taxi and PHV services provided to the public must be safe. Government will play its part, but the importance of local government in achieving this cannot be overstated. Government enables the legislative framework but it is the licensing authorities which set the standards and requirements and crucially make the decisions that can bring about the services the public deserve.

A key element of safety is ensuring that taxi and PHV drivers are properly assessed against robust standards and that this is the case regardless of where they are licensed. The granting of a licence must however not be seen as the end of the process but the beginning; licensees must continue to adhere to the high standards or risk having their licence revoked.

The excellent work undertaken in Rotherham following the identification of its past failings evidences what can be achieved with the powers licensing authorities currently have. We have recognised that not all licensing authorities are as proactive as others in raising standards. To address this, the Policing and Crime Act 2017 enables the issuing of statutory guidance to protect children and vulnerable adults, and by extension all passengers, when using these services.

Some of the recommendations proposed in the guidance would impose additional burdens on the trade. While I would sooner that such measures were not needed, the lessons from the Casey and Jay reports and the impact on the lives of those affected by these failures must not – and will not - be forgotten. To do otherwise would compound the harm and injustice done.

I hope that all authorities will adopt the Department's recommendations and bring about high common standards, and increased sharing of information and enforcement powers. There has long been a call for national standards to achieve greater consistency in licensing and in particular with respect to safety. Government, with the collaboration of all licensing authorities, can effectively bring this about without the delay of Parliament considering new legislation.

The Department has already undertaken to monitor the adoption of the recommendations made in the final version of the statutory guidance. While the measures in the final statutory guidance issued will be recommendations, these are the result of extensive discussions with a range of stakeholders and careful consideration. I will be asking licensing authorities that do not adopt these why they have not done so.



**Nusrat Ghani MP**

Parliamentary Under Secretary of State for Transport

# What we are consulting on

## Introduction

- 1 We are seeking views on proposed recommendations contained in draft statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults. The power to issue this guidance comes from Section 177 of the Policing and Crime Act 2017.
- 2 This consultation will run for 10 weeks, from 12 February 2019 until 23:45 on 22 April 2019.

## Who this consultation is aimed at

- 3 Section 177 of the Policing and Crime Act requires the Secretary of State to consult the following:
  - a. the National Police Chiefs' Council,
  - b. persons who appear to the Secretary of State to represent the interests of public authorities who are required to have regard to the guidance,
  - c. persons who appear to the Secretary of State to represent the interests of those whose livelihood is affected by the exercise of the licensing functions to which the guidance relates, and
  - d. such other persons as the Secretary of State considers appropriate.
- 4 This consultation has therefore been drawn to the specific attention of the National Police Chiefs' Council, the Local Government Association, the National Association of Licensing Enforcement Officers, the Institute of Licensing, and a range of trade representative bodies and publications of which the Department is aware across the country.
- 5 This is a public consultation and we are keen to hear from any other groups or individuals with an interest.

## Our approach

- 6 The recommendations in the draft statutory guidance are the result of extensive engagement and detailed discussion with a range of bodies including representatives of licensing authorities, regulators, operators and drivers, and detailed consideration by the Department for Transport.
- 7 While there is a widespread consensus amongst stakeholders that common core standards are required to regulate better the taxi and PHV sector, government does

not currently have the legislative power to introduce national standards. The Department however expects the recommendations made in the final version of this statutory guidance to be implemented by licensing authorities unless there is compelling local reason not to. This consultation does not seek to discuss the merits of statutory guidance as opposed to legislation to mandate standards. Should Parliament pass legislation in the future to enable national taxi and PHV standards, the recommendations contained in both the statutory and best practice guidance will naturally be the starting point for considering what these might be.

- 8 All local authorities and district councils that provide childrens' and other types of services have a statutory duty to make arrangements to ensure that their functions, and any services that they contract out to others, are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the Working Together to Safeguard Children<sup>1</sup> statutory guidance.
- 9 **Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that this guidance might be drawn upon in any legal challenge to an authority's practice; any failure to adhere to the guidance without sufficient justification could be detrimental to the authority's defence.** This guidance does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.
- 10 The draft statutory guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department's best practice guidance was last updated in 2010. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults, the Immigration Act 2016, the Disclosure and Barring Service checks and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 11 This guidance replaces relevant sections of the best practice guidance issued by the Department in 2010. A consultation on revised best practice guidance, which focuses on recommendations to licensing authorities to assist them in setting appropriate standards (other than those relating to passenger safety) to enable the provision of services the public demand, will be launched at a later date.

<sup>1</sup> <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

# Consultation proposals

- 12 The draft statutory guidance accompanies this consultation document.

## Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout the draft statutory guidance and consultation document and refers to all such vehicles. Taxis are able to be hired by hailing on the street or at a rank.

Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All PHV journeys must be pre-booked via a licensed PHV operator. The term **PHV** is used throughout the draft statutory guidance and this consultation document to refer to all such vehicles.

# Consultation questions

- 13 The Department has carefully considered the recommendations proposed in the draft statutory guidance but these are of course subject to change following this consultation. While it is useful to have indications of the quantity of respondents that agree or disagree with these proposals, the Department wants to ensure that the final recommendations are informed by all available evidence and suggestions where these can be improved. We are specifically interested in ideas and proposals that:
  - are based on evidence
  - support the Government's aim to protect children and vulnerable adults from harm when using taxis and PHVs
- 14 There are 30 questions relating to the guidance, most of these ask for quantifiable (agree, disagree or no opinion) and qualitative (comments) responses.
- 15 Ahead of the consultation questions we would like to collect some information about you and your use of and/or role in the taxi and PHV trade. This information will be used to help to give context to the responses we receive from individuals and organisations. Only questions marked with an \* are mandatory.
- 16 The consultation questions and a response form are available at:  
<https://www.smartsurvey.co.uk/s/taxis-licence/>

# Confidentiality and data protection

- 17 The Department for Transport (DfT) is carrying out this consultation to gather views and evidence on measures for inclusion within the statutory guidance issued to taxi and PHV licensing authorities. This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department. If your answers contain any information that allows you to be identified, DfT will, under data protection law, be the Controller for this information.
- 18 As part of this consultation we are asking for your name and email address. This is in case we need to ask you follow-up questions about any of your responses. **You do not have to give us this personal information.** If you do provide it, we will use it only for the purpose of asking follow-up questions.
- 19 We may contract a third party to analyse the responses we receive to the consultation. If you provide your contact details, we may share this information with a contractor in case they need to contact you regarding your consultation response.
- 20 DfT's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at <https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>.
- 21 DfT's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at <https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>.
- 22 Your information will be kept securely and destroyed within 12 months after the consultation has been completed. Any information provided through the online questionnaire will be moved from their system to our internal systems within 2 months of the consultation end date.



# How to respond

The consultation period began on 11 February 2019 and will run until 23:45 on 22 April 2019. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at <https://www.gov.uk/dft#consultations> or you can contact [Taxis@DfT.GOV.UK](mailto:Taxis@DfT.GOV.UK) if you need alternative formats (Braille, audio CD, etc.).

## **Please respond to the consultation at:**

<https://www.smartsurvey.co.uk/s/taxis-licence/>

Alternatively, please send consultation responses to:

SG-Consultation2019@DfT.GOV.UK

Department for Transport

Buses and Taxis Division (Statutory Guidance Consultation 2019)

Great Minster House

33 Horseferry Road

London

SW1P 4DR

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

## Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure

of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

# What will happen next

A summary of responses, including the next steps, will be published within three months of the consultation closing. Paper copies will be available on request.

If you have questions about this consultation please contact:

Paul Elliott

Taxis@DfT.GOV.UK

Buses and Taxis Division

Department for Transport

Great Minster House

33 Horseferry Road

London

SW1P 4DR

# Consultation principles

The consultation is being conducted in line with the Government's key consultation principles, further information is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator  
Department for Transport  
Zone 1/29 Great Minster House  
London SW1P 4DR  
Email [consultation@DfT.GOV.UK](mailto:consultation@DfT.GOV.UK)

<b>Title:</b> Taxi and Private Hire Licensing – Statutory Guidance <b>IA No:</b> DfT00399  <b>RPC Reference No:</b> N/A <b>Lead department or agency:</b> Department for Transport  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 04/02/2019			
	<b>Stage:</b> Consultation			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Other			
<b>Contact for enquiries:</b> Paul Elliott				
<b>Summary: Intervention and Options</b>				<b>RPC Opinion:</b> RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£194.71m	£194.71m	£22.62m	Not in scope	Qualifying provision

**What is the problem under consideration? Why is government intervention necessary?**

After the failings highlighted in the Jay and Casey Reports into the sexual exploitation of children in Rotherham, and similar failings elsewhere in which taxi and private hire vehicle (PHV) drivers played a prominent role, legislation was brought forward via the Policing and Crime Act (PCA) 2017 to enable the issuing of statutory guidance to licensing authorities (LAs) to mitigate the risk of further abuse. Any taxi or PHV may carry a child or vulnerable person in their vehicle at some time, so it is not possible to restrict the application of the guidance to any sub-set of drivers or the sector; the costs/benefits of the proposed intervention therefore apply to the full breadth of authorities' taxi and PHV licensing activity.

**What are the policy objectives and the intended effects?**

The policy objective is to mitigate as far as practicable the risk to children and vulnerable adults when using taxis and PHVs. The method to achieve this is through inducing consistently high licensing requirements and high standards of rigor in the 'fit and proper' driver assessment among taxi and PHV LAs, in respect of passenger safeguarding. The adoption of the robust requirements, administration and enforcement of taxi and PHV licensing proposed in the draft statutory guidance will mitigate the risk to passengers when using taxi and PHVs and, in the case of in-vehicle CCTV, also mitigate the risk to the drivers of these vehicles from crime.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The following options have been considered:

1. Do nothing - continued reliance on LAs to address deficiencies in standards or processes.
2. Continue to issue best practice guidance only - considered less likely to produce consistency than issuing statutory guidance
3. Issue statutory guidance (Preferred Option) - places a higher degree of compulsion on LAs to meaningfully consider the recommendations, and is already permitted in legislation PCA 2017
4. Mandate minimum standards through primary legislation - ultimately a stronger solution, but would delay increased consistency in standards (and resulting benefits) as new legislation would need to be drafted, then considered by Parliament.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 11//2019

Does implementation go beyond minimum EU requirements?		N/A		
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b> N/A	<b>Non-traded:</b> N/A	

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister: \_\_\_\_\_

Date: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** This would include the measures outlined in the draft statutory guidance within the updated draft best practice guidance. The Department could engage with the 293 licensing authorities in England to encourage high adoption rates of the recommendations to increase consistency in standards.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best NQ Estimate: £194.71m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

### Description and scale of key monetised costs by 'main affected groups'

CCTV Installation costs are estimated at £608 per vehicle.  
Familiarisation costs would also apply as drivers would need to become familiar with the guidance and comply with it. These costs would ultimately depend on the how many licensing authorities would decide to comply with the guidance.

### Other key non-monetised costs by 'main affected groups'

Costs of DBS checks on Operator staff.  
Costs to licensing authorities who choose to comply will have costs associated with setting the scheme, rolling out the scheme and maintaining it.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

### Description and scale of key monetised benefits by 'main affected groups'

### Other key non-monetised benefits by 'main affected groups'

Improved passenger safety due deterrence of crime cause by CCTV.  
Enhanced user confidence due to higher safety.  
Increased passenger demand due to higher user confidence.

### Key assumptions/sensitivities/risks

Discount rate 3.5%

We have not analysed this option as licensing authorities are not obliged to pay regard to best practice guidance, and the Department does not consider this option an adequate response to the policy need. It is likely that the variation of standards across authorities would mean adoption would be slow and the risk to passengers would remain.

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: NQ	Benefits: NQ	Net: NQ	

## Summary: Analysis & Evidence

## Policy Option 4

**Description:** This option would introduce legislation to enable the setting of national standards (either absolute or minimum). It would mean all taxi and PHV vehicles would be subject to mandatory CCTV installation and all operators would be mandated to carry DBS checks on operator staff.

### FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: NQ	High: NQ	Best: -£311.54m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	£177.75m	£13.38m	£311.54m

#### Description and scale of key monetised costs by 'main affected groups'

CCTV Installation costs are estimated at £608 per vehicle. The total discounted cost of installing CCTV is £305.85m  
Familiarisation costs: £5.70m

#### Other key non-monetised costs by 'main affected groups'

Costs of DBS checks on Operator staff.  
Costs to licensing authorities who choose to comply will have costs associated with setting the scheme, rolling out the scheme and maintaining it.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

#### Description and scale of key monetised benefits by 'main affected groups'

#### Other key non-monetised benefits by 'main affected groups'

Improved passenger safety due deterrence of crime cause by CCTV.  
Enhanced user confidence due to higher safety.  
Increased Passenger demand due to higher user confidence.

#### Key assumptions/sensitivities/risks

Due to limited data availability and likely underreporting, the exact rates of crime are unknown. We have however used evidence from individual FOI's and case studies in certain areas as a proxy for likely crime rates nationally. We have assumed that the number of vehicles in the implementation year is at the steady state so the number of vehicles in the implementation year is the same as the number in the final year. We think that overall, this is proportionate.

#### Discount rate

3.5%

### BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: £305.19m	Benefits: NQ	Net: -£36.19m	

# Summary: Analysis & Evidence

# Policy Option 3

Description: This makes use of the powers enabled under the PCA 2017 to issue statutory guidance to which licensing authorities must have regard. It is expected that this will achieve the objective of raising standards and improving the rigour of licensing assessments. This could be achieved in a shorter timescale than introducing primary legislation, and so mitigates the risk of ongoing and potential safeguarding failures.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -£155.77m	High: -£233.66m	Best -£194.71m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant)	Total Cost (Present Value)
Low	£88.87m	£8.59m	£155.77m
High	£133.31m	£12.89m	£233.66m
Best Estimate	£111.09m	£10.74m	£194.71m

### Description and scale of key monetised costs by 'main affected groups'

The most significant potential cost as a result recommendation in the draft statutory guidance would be the purchase and installation of CCTV in vehicles; these would fall on the owners of taxis and PHVs, in most instances the drivers, and is estimated to cost around £608 per vehicle. Familiarisation costs would also apply to all drivers and operators as they would need to understand new licensing requirements and the steps to compliance. Familiarisation costs would be expected to be between £2.85m to £4.27m and would occur in the implementation year only.

### Other key non-monetised costs by 'main affected groups'

Increased costs of conducting DBS checks on PHV operator staff and the installing of CCTV system would likely be, at least in part, passed on to the users of these services through marginally higher fares. There would be an initial cost of setting up such a scheme and costs associated with implementing and maintaining the scheme. These costs would initially fall on licensing authorities which may be passed on to drivers through higher licensing costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

### Description and scale of key monetised benefits by 'main affected groups'

We have not been able to monetise the key benefits associated with this policy due to the nature of the benefits and due to the lack of robust data. We have, however, provided case studies on the cost of crime as well as some illustrative examples of the effect of CCTV on crime prevention as a means of highlighting the magnitude of impacts that could be expected from such a policy.

### Other key non-monetised benefits by 'main affected groups'

Installing CCTV in vehicles has the potential to deter crime and significantly improve passenger safety. This crime prevention and improvement in passenger safety would likely lead to enhanced user confidence which may facilitate higher passenger demand. Passengers might benefit from lower fares if crime reduction was significant enough to reduce insurance premiums for drivers but this is difficult to quantify.

### Key assumptions/sensitivities/risks

We have made an assumption on the likely take up rates of CCTV. Due to the high level of uncertainty surrounding this figure we believe presenting two rates is the most prudent approach, a low scenario of 50 per cent and a high scenario of 75 per cent. Due to limited data availability and likely underreporting of crime the exact rates of crime are unknown. We have however used evidence from individual FOI's and case studies in certain areas as a proxy for likely crime rates nationally.

### Discount

3.5%

## BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: -£22.62m	Benefits: NQ	Net: -£22.62m	



# Evidence Base (for summary sheets)

## Background

In both the taxi and PHV markets, the vast majority of drivers are self-employed, and most lease or own their own vehicle. In the pre-booked market, there is a diverse range of market providers, from national operators such as Uber, big regional operators like Addison Lee or Delta to small local operators and independent driver/operators.

The Government is responsible for setting the regulatory structure within which licensing authorities in England license taxi and PHV drivers. Taxi and private hire licensing in Scotland, Northern Ireland and Wales is devolved. There are 293 licensing authorities in England, each able to set their own standards, including in respect of safety. Legislation however permits pre-booked journeys to be undertaken outside the area in which the driver, vehicle and operator are licensed. While this freedom can provide significant benefits to the public through increased competition and availability, concerns are frequently expressed that passengers are not adequately protected due to different standards among licensing authorities and the inability of licensing officers to take action against drivers licensed by other authorities. It should however be noted that frequently the differing standards do not relate to safety.

Several independent reports into child sexual abuse/exploitation have identified the significant role that those working within the taxi and PHV industry have played; this includes perpetrating offences (in vehicles and elsewhere) and the trafficking of victims. There is a recognition among licensing authorities that failings in the licensing of taxi and PHV services in some areas has significantly contributed to the abuse of children and vulnerable adults. For context, it is widely accepted that over 1,400 children were victims of abuse because of safeguarding failings in Rotherham. In response, section 177 of the Government's Policing and Crime Act 2017 enabled the Secretary of State for Transport to issue statutory guidance in relation to measures that will protect children and vulnerable adults from harm while using taxis and PHVs.

It should be noted that as policing and criminal justice is not a devolved matter, the statutory guidance issued under the Policing and Crime Act 2017 will continue to have effect in Wales despite devolution of responsibility for taxis and PHVs to the Welsh Assembly in April 2018. The statutory guidance would however cease to apply should the Welsh Assembly bring forward its own taxi and PHV legislation. In advance of devolution the Welsh Government consulted on reforming regulation of the sector.

Licensing authorities in England are, with the exception of Transport for London (TfL) in Greater London, local authorities. As well as a requirement to consider the recommendations contained in the statutory guidance local authorities and the Greater London Assembly authorities have a wider duty under section 17 of the Crime and Disorder Act 1998; this places a direct responsibility on these authorities to prevent crime and disorder in their area. Authorities therefore must regard the likely effect of the licensing function and need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment). This is a particular concern for taxi and PHV drivers; the nature of their work makes them a particularly vulnerable group.

The Department believes public safety benefits will accrue from the introduction of the recommendations made in the draft statutory guidance; adoption levels and crime figures will be used to assess if those proposed in the final statutory guidance have been effective in its policy objectives of mitigating the risk of harm to taxi and PHV passengers. Given the importance of this issue, an early review is deemed necessary.

## Rationale for intervention

While the Government acknowledges the efforts of some licensing authorities, operators and drivers to address public safety risks, the Government consider it necessary to act to ensure consistently high standards throughout the sector by setting out its opinion on what should be considered as part of suitable 'fit and proper' assessments and other safeguarding measures. This will introduce a set of minimum standards that the Government considers appropriate to protect passengers; passengers will be assured that any driver will have been considered in similar way against a common standards regardless of the licensing authority. This will also level the 'playing field' and enable fairer competition

among drivers and operators by restricting the opportunity to seek out a competitive advantage through reduced costs resulting from unacceptably low standards.

There is evidence to support the view that taxis and PHVs are a high-risk environment. In terms of risks to passengers, this can be seen in the number of sexual crimes reported which involve taxi and PHV drivers. A 2014 Freedom of Information (Fol) request made to Greater Manchester Police<sup>1</sup> found there was 37 sexual offences which were “taxi related and/or the victim/offender relationship was that of passenger/driver or driver/passenger” in the previous calendar year. In March 2013 11,977 licensed vehicles or approximately 5.41% of the fleet in England were licensed by a Greater Manchester authority. A Fol request made to Merseyside Police indicated 22 assaults in 2011<sup>2</sup>, at this time Merseyside accounted for 4.00% of licensed vehicles. In Kent 6 sexual offences were reported where the suspect was reported to be an on duty taxi or PHV driver, at this time 1.02% of England’s taxi and PHV were licensed there<sup>3</sup>. If similar offences patterns are applied across England it would suggest over 623 sexual assaults per year, with a total cost of £25.6million (2014 prices) based on the average cost of £41,142 (2014 £)<sup>4</sup> per offence<sup>5</sup>. These figures do not account for the under reporting of crime which is estimated to be as high as 83% in the Crime Survey for England and Wales<sup>6</sup>. This evidence shows that the true costs of sexual offences could be substantially higher than reported crime figures suggest. In addition, the survey also highlights that 28% of victims report not being believed as the primary reason for not reporting the crime. This is of particular relevance to the recommendations on CCTV in vehicles.

### **Problem under consideration**

Differing standards in licensing requirements and the rigour with which ‘fit and proper’ assessments are made have contributed to failings in the protection of passengers using taxis and PHVs. Engagement with MPs, licensing authorities and other stakeholders has identified a need and desire to harmonise the assessment regime in response to past failings. This will also mitigate the safety concerns that result from drivers licensed by authorities with lower safety standards operating in areas other than that in which they are licensed.

Some licensing authorities have cited a concern, both to the Department and during the 2012-2014 Law Commission review<sup>7</sup>, that their ability to raise standards is hindered as operators and drivers may “migrate” to authorities that have lower standards. Strong recommendations from the Department are needed to galvanise a proactive review of safety concerns and potential measures to mitigate the risk posed to passengers of taxis and PHVs in all licensing authority areas.

In England and Wales, about 53% of taxi and PHV drivers are non-white<sup>8</sup>, a much higher than average percentage of the workforce. A report in 2008 commissioned by the Department revealed that drivers of taxis and PHVs consistently experience verbal abuse from passengers, often racially motivated<sup>9</sup>. This ranges from casual or dismissive rudeness to severe abuse that can be threatening and includes racist abuse for drivers from Asian and other minority ethnic communities. Almost all the drivers interviewed for that study experienced verbal abuse at least once a week and, for a significant minority, it was a much more frequent occurrence. Almost none of these incidents will be reported to the police unless they escalate into a violent incident where assistance from the police or other emergency services is sought. Such behaviour is unacceptable and licensing authorities should consider their duties under the Crime and Disorder Act 1998 to quantify and tackle this issue in their area.

### **Policy objective**

<sup>1</sup> [https://www.whatdotheyknow.com/request/sex\\_attacks\\_2](https://www.whatdotheyknow.com/request/sex_attacks_2)

<sup>2</sup> [https://www.whatdotheyknow.com/request/taxi\\_private\\_hire\\_related\\_rapes#incoming-286178](https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178)

<sup>3</sup> <https://www.whatdotheyknow.com/request/415791/response/1022748/attach/html/4/17%2007%20693%20Appendix.pdf.html>

<sup>4</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/191498/Green\\_Book\\_supplementary\\_guidance\\_economic\\_social\\_costs\\_crime\\_individuals\\_households.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191498/Green_Book_supplementary_guidance_economic_social_costs_crime_individuals_households.pdf)

<sup>5</sup> <http://webarchive.nationalarchives.gov.uk/20110218140137/http://rds.homeoffice.gov.uk/rds/pdfs/hors217.pdf>

<sup>6</sup> The CSEW provides reliable estimates of the prevalence of sexual assaults using a consistent methodology that is not affected by changes in recording practices and police activity or by changes in the propensity of victims to report to the police.

<sup>7</sup> “Taxi and Private Hire Services”, The Law Commission (LAW COM No 347), May 2014

[\[http://www.lawcom.gov.uk/app/uploads/2015/03/lc347\\_taxi-and-private-hire-services.pdf\]](http://www.lawcom.gov.uk/app/uploads/2015/03/lc347_taxi-and-private-hire-services.pdf)

<sup>8</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/642759/taxi-private-hire-vehicles-2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642759/taxi-private-hire-vehicles-2017.pdf)

<sup>9</sup> <http://www.national-taxi-association.co.uk/wp-content/uploads/2011/01/Research-on-the-personal-security-issues-for-taxi-and-PHV-drivers-DFT.pdf>

The policy objective is to increase the consistency of licensing requirements set by taxi and PHV licensing authorities in England and the quality of decisions they make in respect of passenger safeguarding (and by doing so, protect children and vulnerable adults from harm).

The taxi and PHV licensing legislation is enabling by nature and so licensing requirements cannot be imposed by Government. However, the adoption by licensing authorities of the recommendations contained in the final statutory guidance would provide a set of core common standards relating to passenger safety.

The draft statutory guidance focusses on ways licensing authorities can ensure that decisions are based on the most complete information available, whether this is 'soft intelligence' held internally or from other public protection bodies, better use of the Disclosure and Barring Service (DBS) or the use of in-vehicle CCTV footage. Adoption of these recommendations by all licensing authorities would significantly mitigate risk to passengers, irrespective of which authority issued the licenses.

### **Description of options considered**

1. **Do nothing** – This would potentially leave the children and vulnerable adults that section 177 of the PCA 2017 seeks to protect at continued risk of sexual abuse and exploitation. We would continue to rely upon individual licensing authorities to identify, and more importantly address, deficiencies in their licensing policy or administration.
2. **Continue to issue only best practice guidance** – This would include the measures outlined in the draft statutory guidance within updated best practice guidance. The Department could engage with the 293 licensing authorities in England to encourage high adoption rates of the recommendations to increase consistency in standards. The Department has issued best practice guidance for more than 10 years, which has achieved a degree of consistency on some issues, but this safety critical issue requires more compelling action. Data from the Department's survey of taxi and PHV licensing authorities evidences that not all are making the best use of their powers, for example, not all undertake an enhanced and barred lists check via the Disclosure and Barring Service. Given the high number of licensing authorities and the current variance in standards, and more so the rigor of 'fit and proper' assessments, achieving a high adoption level of strengthened safety recommendations is likely to be a lengthy process. During this time the current level of risk would remain. Licensing authorities are not obliged to pay regard to best practice guidance, and the Department does not consider this option an adequate response to the policy need.
3. **Statutory guidance (preferred option)** – This makes use of the powers enabled under the PCA 2017 to issue statutory guidance to which licensing authorities must have regard. It is expected that this will achieve the objective of raising standards and improving the rigour of licensing assessments where either of these is deficient in a shorter timescale than introducing primary legislation, and so mitigates the risk of ongoing and potential safeguarding failures.

While statutory guidance may not achieve complete adoption of all of the recommendations, it is the Department's view that evidence resulting from thorough local assessment of the potential benefits will achieve a very high adoption rate. This is in the context of the duty of local authorities (which usually act as licensing authorities) have under section 17 of the Crime and Disorder Act 1998 to:

*...exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent,*

- (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and*
- (b) the misuse of drugs, alcohol and other substances in its area; and*
- (c) re-offending in its area.*

4. **Primary Legislation** – this option would introduce legislation to enable the setting of national standards (either absolute or minimum). Although Government support this objective until the parliamentary process to enable national standards is complete, the current risk to children and vulnerable adults (and by extension all passengers) when using taxis and PHVs will persist.

**Recommendation** - Statutory guidance as the preferred option based on the ability to bring about greater passenger safety through increased consistency in the regulation of the taxi and PHV sector in the shortest possible time and in advance of legislation to enable national minimum standards. The recommendations in the final statutory guidance will be the starting point when considering measures for inclusion in national minimum standards.

## **Key recommendations in the draft Statutory Guidance**

### **Enhanced Disclosure and Barring Service and barred list checks for drivers**

The Department's Taxi and Private Hire Vehicles Statistics published in September 2018<sup>10</sup> shows that as of 31 March 2018, all licensing authorities have a policy that an enhanced DBS check must be undertaken as part of the assessment as to whether a taxi or PHV driver licence should be issued. There are however 45 authorities (15%) that did not require the enhanced DBS with barred lists check as recommended in the draft statutory guidance. Since the cost of 'enhanced' and 'enhanced with barred lists' check are the same, it is expected that there are no additional costs of the proposal as part of a driver licence application or renewal assessment. An enhanced check with barred lists shows the same information as an enhanced check plus whether the applicant is on the list of people barred from working with children and/or vulnerable adults.

In addition, the draft guidance also recommends that licensing authorities mandate that licence applicants and holders subscribe to the DBS update service, and that the authority conducts biannual checks. As of March 2018 83% of licensing authorities reported that a routine review of the DBS record was only undertake every three years for taxi and PHV drivers. The Department believes a biannual check is a proportionate measure; a licensed vehicle is subject to a condition check at least once a year and it is reasonable that drivers are subject to more frequent checks than most are currently.

The cost of a biannual DBS check via the update is £13 against £88 for the paper version (£44 per check). To avoid unnecessary administrative burden for the licensing authority and expense for the licence holder, the Department recommends that licensing authorities should require licence holders to subscribe to the DBS update service. The update service enables licensing authorities to request updated information electronically from DBS rather than requesting a new paper certificate be issued. Further action on the part of the licensing authority would only be required if new information was provided via the update, which the licensing authority would need to consider against its licensing policy. Subscription to the DBS update service will also provide benefits to the trade through greater continuity of licensing, removing the risk of void periods caused by delays in obtaining a new DBS paper certificate.

### **In-vehicle CCTV**

Government has recognised that taxis and PHVs present a high risk environment to passengers and drivers - this is due to the characteristics of the trade i.e. both passengers and drivers may be alone and potentially vulnerable. In the case of risk to passengers this was reflected in the decision in 2012 to enable licensing authorities to request enhanced DBS and barred list checks for all drivers, a check usually reserved for those undertaking a 'regulated activity'. This risk was further recognised by Government and Parliament in passing the legislation enabling the issuing of the Statutory Guidance to protect children and vulnerable adults from harm when using taxi and PHV services.

The high risk of antisocial behaviour and violence posed to drivers should also be considered as part of this impact assessment. As part of the Law Commission's 2014 review of taxi and PHV regulation, passenger and driver safety was considered. The Law Commission consultation also found that *"Stakeholders agreed that driver safety was a major concern, and it was widely regarded as not appropriately addressed or given adequate consideration under the current regulatory framework. Many stakeholders told us of harassment, robberies and assaults. Serious attacks are often reported in the press, and the murders of taxi and private hire drivers in disputes stemming from their work are, sadly, not rare."* The Commission engaged extensively and found that *"A number of stakeholders, particularly within the taxi trade, were strongly in favour of a mandatory CCTV requirement."* The report went on to

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<sup>10</sup><https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2018>

conclude that “*The evidence we collected during consultation suggests that safety concerns for drivers are best dealt with by requiring safety equipment in vehicles, such as CCTV and vehicle partitions. Furthermore, purpose-built vehicles with in-built safety features are more common in the taxi industry, and regulation should be capable of taking account of this.*”

In the Law Commission’s Impact Assessment<sup>11</sup> an assumption was made that 50% of the 63 taxi or PHV drivers murdered over a 20 year period were related to their occupation and that the best estimate (based on preventing 2 deaths per year) would provide annual savings of £3.7million (2014 prices).

Due to the differing ways in which crime is recorded by different police forces and the under-reporting of crime, the actual level of offences committed by and against drivers is not known. A report for the Department in 2008 indicated the scale of the problem, which was also identified in the Law Commission’s 2014 report.

The true potential benefits of CCTV in terms of crime reduction are difficult to quantify given the underreporting of crime and limited data available on the effectiveness of CCTV in this situation. However, there have been a number of research papers attempting to quantify the impact of CCTV as a crime preventative measure. For example, a report for the Swedish National Council for Crime Prevention<sup>12</sup> assessed the effectiveness of CCTV as a means of deterring crime for a number of studies. The results were generally mixed, finding both significant effects in areas such as car parks to non-significant effects in other settings. Overall, the effectiveness depended on factors such as coverage but overall the results suggest that CCTV reduces crime to some degree. This effect may be amplified when applied to a small setting such as a vehicle where coverage and chances of detection are significantly higher. An additional piece of research from the Campbell Collaboration found that “CCTV has a moderate but significantly desirable effect on crime”.<sup>13</sup>

As a result of limited data availability we have made a number of assumption and where possible have highlighted the cost and number of crimes using freedom of information requests and Home Office research to provide indicative examples of the magnitude of benefits of crime prevention.

A 2002 NACRO report<sup>14</sup> into the effectiveness of CCTV as a crime prevention measure considered the way in which it may prevent crime in this context:

1. **Deterrence** – The potential offender becomes aware of the presence of CCTV, assesses the risks of offending in this location to outweigh the benefits and chooses either not to offend or to offend elsewhere.
2. **Self-discipline by potential offenders** – The threat of potential acts to produce a self-discipline in which individuals police their own behaviour.
3. **Presence of a capable guardian** – The ‘Routine Activity Theory’ suggests that for a crime to be committed there must be a motivated offender, a suitable target and the absence of a capable guardian. Any act that prevents the convergence of these elements will reduce the likelihood of a crime taking place. CCTV, as a capable guardian, may help to reduce crime.
4. **Detection** - CCTV cameras capture images of offences taking place. In some cases this may lead to punishment and the removal of the offenders’ ability to offend (either due to incarceration, or increased monitoring and supervision).

Although there is limited evidence of the impact of CCTV in reducing taxi and PHV crime. There have been a number of trials suggesting the effects could significantly reduce crime. A trial in Sheffield in 2006/7 (the Sheffield Taxi Camera Safety Project<sup>15</sup>) indicated a reduction in the proportion of journeys where there was an incident (ranging from fare disputes to assaults) from 15% to 1%. Another trial was undertaken in Dunfermline<sup>16</sup>, looking at the impact of fitting CCTV into 30 vehicles over a period of 10

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<sup>11</sup> [https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc347\\_taxi-and-private-hire-services\\_impact-assessment.pdf](https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc347_taxi-and-private-hire-services_impact-assessment.pdf)

<sup>12</sup> Brandon C. Welsh David P. Farrington, Closed-Circuit Television Surveillance and Crime Prevention A Systematic Review, Report prepared for The Swedish National Council for Crime Prevention, 2007

<sup>13</sup> Effects of Closed Circuit Television Surveillance on Crime , Welsh, Farrington (2008)  
[https://www.campbellcollaboration.org/images/meeting/1048\\_R.pdf](https://www.campbellcollaboration.org/images/meeting/1048_R.pdf)

<sup>14</sup> <https://epic.org/privacy/surveillance/spotlight/0505/nacro02.pdf>

<sup>15</sup> [https://www.calderdale.gov.uk/nweb/COUNCIL\\_minutues\\_pkg.view\\_doc?p\\_Type=AR&p\\_ID=3412](https://www.calderdale.gov.uk/nweb/COUNCIL_minutues_pkg.view_doc?p_Type=AR&p_ID=3412)

<sup>16</sup> <https://www.cabdirect.com/taxi-cctv-lowers-crime-rate-in-dunfermline/>

months (May 2014 – February 2015). The results suggest that there was a significant reduction in taxi related crime compared to the previous year where no CCTV was installed.<sup>17</sup>

It is the Department's view that CCTV in taxis and PHVs can play a significant role in the reduction of crime within and related to trade. This includes offences perpetrated by drivers against passengers and vice-versa, as set out in the 'problem under consideration' section above. The inclusion of the recommendation in the draft statutory guidance to undertake a thorough review of the benefits of mandating CCTV in taxis and PHV is, as is the purpose of the Act under which it is enabled, however focussed on improving passenger safety,.

However, for the purposes of this assessment the wider benefits have been considered. As previously stated, section 17 of the Crime and Disorder Act 1998 places a direct responsibility on licensing authorities to prevent crime and disorder in their area. CCTV can play a role in preventing crime, detecting and evidencing this where it persists. The draft statutory guidance therefore recommends that licensing authorities should conduct a comprehensive review of the benefits to passengers and drivers of CCTV in vehicles.

The high level of self-employment in the sector means that for this recommendation to be effective, this requirement would need to be applied to all licences vehicles and not just those in large fleets as the majority of journeys are undertaken in owner-driven vehicles.

### **DBS checks for some PHV operator staff**

The measures proposed in the statutory draft guidance seek to provide consistently high standards in taxi and PHV licensing throughout England. The Department has also looked at measures to prevent the circumventing of these robust measures.

Drivers are the primary contact-point for passengers using taxis and PHVs, and as such are in a position of trust. However, members of staff working for a PHV operator who are responsible for receiving bookings and dispatching vehicles also have a role which offers opportunity to someone seeking to abuse that position. For example, such a person would potentially have the opportunity to send an unlicensed driver and vehicle, particularly if the motive is to facilitate a crime against a child or vulnerable adult. In essence a similar level of trust is placed in the PHV operator and it's dispatching staff as in the driver. For this reason it is the Department's view that there should be an appropriate level of criminal record check carried out for such staff.

PHV operators are also provided with information that could enable other crime. For example, PHVs are frequently used to take passengers to an airport and provide return flight details to facilitate the return journey. This means that PHV staff are aware of periods where family members are home alone or the home unoccupied. Requiring background checks on those individuals subject to sensitive information may assist licensing authorities in meeting their responsibilities under section 17 of the Crime and Disorder Act 1998 to prevent crime in their area.

Licensing authorities are not able to vet PHV staff other than drivers and the operator licence holder. However, as part of a 'fit and proper' test for an operator's licence a licensing authority is able to consider the measures that it may take to ensure the suitability of staff involved with the taking of bookings, dispatch of vehicles and/or have access to such information as detailed above. While it is the responsibility of PHV operators to make decisions on the suitability of staff they employ, the ability of 'back office' staff to circumvent safeguarding measures or facilitate other crime should be considered by a 'fit and proper' operator. Accordingly, the draft statutory guidance recommends that operators should be required to request basic DBS checks for relevant staff, and either produce a convictions policy or adopt one which the licensing authority applies to the licensing of operators for staff in roles which involve the taking of bookings, dispatch of vehicles.

The Department has sought information on the number of staff that might fall within this category but, due to the fragmented nature of licensing, differing business models and the increased use of

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<sup>17</sup> The trial reports lowering taxi related incidents from 41 in the previous year down to 2 during the period when CCTV was installed.

technology to undertake booking and dispatch functions, it has not been possible to obtain sufficient data.

### **Complaints against driver and operators**

Licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a PHV driver is more likely to be made to the operator. A systematic recording of complaints will provide a further source of information to consider when renewing a licence for a driver or operator or identify problems during the period of the licence.

The Local Government Association recommends that all councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual drivers. Drivers with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate).

### **Model convictions policy**

The Department has not previously published a guide criminal convictions policy, leaving this to licensing authorities that are accountable to their communities. The increase in demand for private hire services and the use of technology in recent years has resulted in more cross-border operation of taxis and (particularly) PHVs; the adoption by all licensing authorities of the statutory guidance's recommendations on a convictions policy will mitigate personal safety risks, perceived or actual, that may exist as a result of cross-border hiring. The Department has therefore adopted in the draft statutory guidance key elements of the guidance published by the Institute of Licensing (IoL) on determining the suitability in taxi and PHV licensing<sup>18</sup> to increase consistency in decision making.

All licensing authorities should review their convictions policies once the final statutory guidance has been issued, and undertake a review of all licences held against their new policies as matter of urgency. The continued licensing of drivers or operators that do not meet their new policy should be considered. Such licence holders should be judged on their own merits, licensing authorities considering afresh if, on the balance of probabilities, that person remains 'fit and proper'. This is a one-off administrative review, it is not possible to estimate a cost as the number of drivers or operators convicted of an offence cover in the final conviction policy is not known. However, given the nature of these offences (driving, violence, indecency and dishonesty) the Department considers that that the proportion of drivers and operators currently licensed with a relevant conviction would be extremely small.

### **Summary**

Parliament has enabled the issuing of statutory guidance to mitigate the risk to children and vulnerable adults from harm when using taxis and PHVs. The set of measures proposed in the draft statutory guidance are considered by the Department of Transport to be reasonable, practicable and necessary to achieve common core standards that protect this group when using these services. This will have the additional benefit of increasing the safety of all passengers and drivers.

Although the draft statutory guidance is focussed on the protection of passengers, drivers of taxis and PHVs are a particularly vulnerable group and would receive considerable (perhaps greater) increased protection from crime.

The draft statutory guidance will be subject of a public consultation giving regulators, the trade and the public the opportunity to consider the arguments presented and shape the final document. Although the Department is keen to see all the recommendations accepted by all licensing authorities, the taxi and PHV licensing legislation is enabling by nature and so ultimately it would be for each of the 293 licensing authorities in England to decide whether and how to implement and enforce these.

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<sup>18</sup> [https://www.instituteoflicensing.org/documents/Guidance\\_on\\_Suitability\\_Web\\_Version\\_\(16\\_May\\_2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

## Analysis

This analysis looks at the effect of several key recommendations contained in the draft statutory guidance, the preferred policy option. Specifically it considers the effects of in-vehicle CCTV and DBS checks for PHV operator staff that take bookings or dispatch vehicles. Where possible we have consulted industry and licensing authorities to inform our view of the likely costs of certain aspects of the policy. Where it has not been possible to get solid evidence on specific benefits we have had to make assumptions which we believe to be prudent.

We have only analysed certain aspects of our preferred policy, issuing statutory guidance. The other components of the draft statutory guidance such as enhanced DBS and barred list checks, complaints against drivers and operators and model convictions policy have not been analysed because they would create minimal additional impact on the trade and customers or reliable data to monetise costs and benefits was not obtainable.

In addition to this, the benefits of our preferred option have not been monetised for two reasons, the first being the relative dearth of data on CCTV crime prevention. The second reason is that crime tends to be underreported and so any data we do have is likely unreliable. We have, however, provided some case studies where both the impact of CCTV on crime has been measured<sup>19</sup> and the benefits of crime prevention have been monetised to illustrate the potential gains that may be expected following the introduction of the final statutory guidance.

As standard in impact assessments we have assumed a time period of 10 years for the analysis. We have used the GDP deflator to convert nominal values into real values and used a discount rate of 3.5 per cent as per HM Treasury guidance. All monetary values are quoted in 2014 prices unless otherwise stated. The following analysis relates to option 3, implementing statutory guidance.

## Plans for Consultation

There are some aspects of the analysis that were not possible to monetise due to lack of available data. In particular, we were not able to monetise the DBS costs and fees but we plan on gathering evidence during consultation that may allow us present quantified costs for this aspect of the policy. We will also use the consultation to try and obtain more evidence on crime and also the efficacy of CCTV on crime prevention which may help us monetise some of the benefits outlined in the analysis. It is our view that our main assumption on take-up rates is inherently uncertain and it is unlikely that we will be able to reduce this uncertainty during the consultation process.

## Cost Assumptions

### Analysis of the size of impacts

The lack of available data and empirical evidence on take-up rates has prompted us to provide a low and a high estimate of the potential take up of CCTV in vehicles as a result of the policy. A conservative scenario of 50% (Low) and a more optimistic scenario of 75% (High). For the Low scenario we assume that there be approximately 141,000 vehicles in the scope of the policy. Under the high scenario this number will be closer 211,000<sup>20</sup>. These scenarios reflect the large heterogeneity in vehicle numbers across licensing authorities as well as uncertainty in the exact take-up rates following implementation of the Statutory Guidance. For example, Transport for London licensed nearly 109,000 vehicles in 2018 whereas Staffordshire Moorlands licenced 53 vehicles. For this reason we consider it more cautious to focus the analysis on the number of vehicles rather than the number of licensing authorities who decide to implement the policy.

We believe that these low and high scenarios reflect a prudent assumption on the likely range of take-up rates with the outcome most likely falling somewhere in between. Ultimately, we think that the overall

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<sup>19</sup> There is however, some evidence from a trial study in Sheffield which found a significant impact on crime prevention of CCTV.

<sup>20</sup> We have calculated this by taking away the number of Taxi and PHV licenses in areas already mandating CCTV. Data from Department for Transport taxi and PHV statistics was used.



rate will depend on local circumstances. In particular, we expect areas that have higher crime rates as being more likely to adopt the policy. Table 1 below shows the number of vehicles expected to take up the policy based on our high and low scenario assumptions.

**Table 1: Up Take rates**

CCTV Uptake	Low (50%)	High (75%)
Taxis	37,169	55,753
PHVs	104,051	156,076
Total Vehicles	141,220	211,830

Source: Department for Transport Taxi and PHV statistics and authors assumptions

There are two main monetised costs that we expect from the policy and they are the cost of installing the CCTV into vehicles and the cost to the operators and drivers of becoming familiar and ensuring they comply with the various aspects of the policy (familiarisation costs), explored below. We also have several costs that we were not able to monetise due to lack of available data. These include the costs of designing and planning an approach to comply with the draft statutory guidance, costs associated with rolling-out the policy and on-going costs of complying with the policy. We expect that these non-monetised costs will fall primarily on licensing authorities and we have included descriptions and examples of the costs after consulting with licensing authorities who have implemented similar policies in the past.

## Monetised-Costs

### Costs to business

#### Familiarisation costs

Taxi drivers and PHV operators and drivers will face costs of familiarising themselves with the new licensing requirements introduced by licensing authorities, and understanding the steps they will need to take to comply. Based on conversations with industry we have assumed that, for each PHV operator, PHV driver and taxi driver, one employee will need to spend approximately 1.5 hours to familiarise themselves with the final statutory guidance. These costs will be a one-off in the first year of the scheme only, and will apply to all drivers and PHV operators. We have separated the analysis into a low and high scenario to reflect the uncertain number of vehicles mandated to install CCTV. Overall familiarisation costs are expected to be around £2.85m in the low scenario, £4.27m in the high scenario and £5.70 of familiarisation costs apply to all vehicles. The exact inputs used in the calculation are listed in table 2 below and costs are calculated by multiplying together the number of operators, the operator familiarisation time and the mean wage of a manager in the transport sector. We do the same calculation for drivers of taxis and PHVs using the average drivers wage and add them together to get the total. We obtained data on average wages from the Annual Survey of Hours and Earnings<sup>21</sup> (ASHE). To maintain consistency with the wider analysis we have assumed that our Low and High scenario also applies to the number of operators. So for example, in the low scenario, we expect that around 50 per cent of operators will have to familiarise themselves with the guidance. In reality since there is large heterogeneity in vehicle numbers between operators meaning this may be unlikely assumption. The costs overall associated with this component are quite low however, and we think the assumption is proportionate overall.

**Table 2: Familiarisation Costs**

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<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2016provisionalresults#earnings-by-occupation>

Variables	Low (50%)	High (75%)	100%
Operator Numbers	7,875	11,812	15,749
PHV Numbers	104,051	156,076	208,102
Operator Familiarisation Time	1.5	1.5	1.5
Manager Wage	£19.56	£19.56	£19.56
Taxi Numbers	37169	55,753	74,
Mean Driver Wage	£12.86	£12.86	£12.86
Total Cost	£2.85m	£4.27m	£5.70m

Source: Department for Transport Bus and Taxi statistics, ASHE, consultation with licensing authorities  
Notes: Totals have been discounted using Green Book discount factor

## CCTV installation costs

Based on industry evidence, the cost of the camera and its installation is assumed to be between £438 and £779 with an average of £608 and is expected to be the largest cost in the analysis. We have thus carried out the impact assessment using the average of the two scenarios. Based on consulting with industry we estimate that cameras must be replaced every five years.

Taking the average cost of installing CCTV and the indicative take up rates and the need to replace the equipment once over the life of the analysis, the range of discounted costs from installing CCTV is expected to be between £152.92m and £229.38m as shown in Table 3. This averages to £15.29m and £22.94m per year over 10 years. After consulting with licensing authorities we obtained information from Gravesham Borough Council who implemented an incentive scheme to aid drivers in purchasing CCTV systems. In particular, the grant lowered the cost from £720 to £97. If a similar grant was adopted in areas choosing to implement the policy then this would significantly reduce the cost to business of the measure proposed in the draft statutory guidance. We have also received some evidence on leasing CCTV equipment rather than an outright purchase. This would substantially reduce the upfront cost for drivers and allow them to smooth the costs of equipment over a number of years. We have not monetised this at present as it is uncertain how widespread these types of arrangements will be. We will however, review this post consultation and look to monetise this if more information becomes available.

**Table 3: Costs of Installing CCTV**

CCTV Installation Costs	Low (50%)	High (75%)
Average Cost	£608	£608
Number of Vehicles	141,220	211,830
Replacement Rate	every 5 years	every 5 years
Total cost over 10 years	£152.92m	£229.38m
Average Cost per year	£15.29m	£22.94m

Notes: Costs are rounded.

## Non-monetised costs

### Costs to Business

#### Higher licencing costs

The results of increasing costs on licensing authorities may well be passed on to the taxi and PHV trade in the form of higher licensing fees. This cost would likely be staggered over a period of time and be

quite small however. It is also an indirect and not a direct cost to business so falls outside the scope of the EANDCB.

## **DBS compliance costs and fees**

This draft statutory guidance would require that for each PHV operator staff member who has a role in taking bookings and dispatching vehicles, the operator must pay a £25 fee to obtain a DBS check, as well as the £13 annual update fee. Although we have evidence on the number of PHV operators, we hold no data on numbers of such staff and therefore have not monetised this cost. We do plan on gathering more information during the consultation phase which may give us a better idea on this value. Table 4 provides an estimate of the total costs over 10 years. If we assume that each operator has 2 members of staff that takes bookings and dispatches vehicles and assume a growth rate of 4.8 per cent based on past average growth in licensed vehicles per year, we get the total costs below in table 4.

**Table 4 DBS total discounted costs Example**

DBS compliance Costs	Costs (2014 £)
Number of Operators	15,749
Number of Staff	2
DBS check cost	£25
Annual update fee	£13
Total Cost	£1,941,810

## **Costs to Consumers**

### **Increasing Fares**

The largest cost associated with this policy are the installation costs of CCTV. Because these potential cost would fall in most commonly on drivers of taxis and PHV's directly, it is highly likely that to offset some of the burden of this they would seek to increase fares that consumers will need to pay.

## **Costs to Government**

Under current tax law, a business may claim back on their capital assets. Under these laws businesses may claim capital allowances of plant and machinery. As CCTV is included in this there would be a reduction in income/corporation tax which represents a loss to the exchequer.

## **Costs to Licensing Authorities**

The measures proposed in the draft statutory guidance are also expected to result in several types of costs to licensing authorities and we have defined these too; broadly fall under the following headings:

1. Planning and Feasibility
2. Technical Requirements
3. Roll-out.

We have not monetised these costs as we would have to make a number of assumptions that we believe are unlikely to hold in reality. In particular we would have to assume that costs are the same for all licensing authorities which would most likely not be the case. As well as this we would have to make an assumption on the number of licensing authorities that would decide to take adopt the measures in the draft statutory guidance. Making an assumption based on this would be inconsistent with our main assumption on licensing take up rates. For these reasons we have decided not to monetise these

particular costs. We have, however, outlined the costs expected from such a policy based on information gathered from a licensing authority who have implemented a similar policy in the past. The costs we were originally quoted are based on the time required for a policy including CCTV as well as other measures. We were advised that the CCTV component accounted for approximately 50 per cent of the total costs and this has been applied to the final cost quoted below.

## **Planning and Feasibility**

There would be a cost to licensing authorities in assessing the rationale for implementing CCTV and, if applicable, designing the new scheme. In particular, licensing authorities may have to update their licensing policy to reflect the new guidance. There would be costs associated with consultation and engagement with key stakeholders which would need to be carried out in order to shape the policy and address any issues that are present. These stakeholders may include taxi/PHV trade bodies, operators and drivers, residents and local police force. Costs associated with getting agreement/approval for the plan from a committee are also expected to apply.

## **Technical Requirements**

In implementing the proposed CCTV guidance, licensing authorities would also have to define and develop a clear policy relating to what the CCTV can be used for and when it must be used. This would require background research and involve consultations in order to form a coherent policy. Our information from licensing authorities indicates that this would be a relatively large undertaking and require approximately 3 months of work. In addition to this initial undertaking, authorities would also need to develop a download policy which complies with data protection and privacy laws. This process was suggested to take around 3 weeks.

## **Roll-Out**

Licensing authorities that elect to mandate CCTV following the assessment process would need to develop a detailed policy on the use of CCTV, they would then need to roll-out the policy. This would involve creating a roll-out schedule, disseminating information relating the policy by way of informing the public and drivers and also training for enforcement officers and the cost of ongoing enforcement activity. We expect that the main cost associated with this will be the salary of the officer required to undertake these activities.

The majority of the costs of this particular aspect of the policy consists of the licensing officer's time. Based on the information we received under the above headings, the cost was approximately £18000.

## **On-Going Costs**

There will also be some on-going costs that would fall on licensing authorities as a result of the measures proposed in the draft statutory guidance that we have not been able to monetise due to lack of evidence. For example, there will need to be a certain level of back office administration costs relating to the processing and handling of the camera footage which needs to be obtained when required from the system fitted in the vehicles. This could take the form of an authorised staff/ data controller who is responsible for processing the data and complying with all the relevant protection legislation. Alternatively, the licensing authority could hire a third party to process and manage the data which will also have an associated cost.

Administrative cost of complying with judicial requests for CCTV will also apply. After consulting with Southampton licensing authority we have found evidence that from a fleet of 900 vehicles there were some 239 download requests. As all of these costs fall on licensing authorities they are not a direct cost to business and are therefore not included in the EANDCB. They may, however, be passed on to business through higher licensing fees.

## **Benefits Assumptions**

**Table 5: Value of Crimes 2014 £**

Crime	Cost of crime
Homicide	£1,909,943
Sexual offences	£41,142
Theft - not vehicle	£829
Robbery	£9,516
Theft from vehicle	£1,121
Criminal damage	£1,132
Common assault	£1,882
Fare dodging	£13

Source: Home Office<sup>22</sup>

Although we have not been able to monetise the benefits in this analysis, we have highlighted the values of certain crimes to give a sense of the monetary benefits associated with crime prevention. Table 5 contains the monetary values of crimes according to the Home Office which takes into account a variety of factors such as physical and emotional damage and the value of lost productivity. If we take the evidence of crime mentioned before in Rotherham (1400 cases of abuse) we can use the value of a sexual offence in Table 5 to estimate the total costs to the economy from these crimes is approximately £55.59m. Although likely not a representative sample of the UK as a whole, this example highlights the potential cost savings from preventing such crimes.

## Benefits

The main benefit of having CCTV installed in taxis and PHVs as well as having enhanced DBS and barred lists checks is that crime is likely to be prevented. This result is expected for a number of reasons mentioned above including, deterrence, self-discipline by potential offenders, presence of a capable guardian and detection. The presence of CCTV acts as a disincentive to potential criminals as it increases the likelihood that they will be caught. In addition to this, the enhanced DBS and barred lists checks can prevent any would be criminals from entering into the market in the first place.

There are a number of factors which make monetising the benefits of crime prevention very difficult and are as follows:

- Inconsistent recording of crimes committed associated with taxis or PHVs, and their drivers.
- Any data collected on crimes associated with taxis and PHVs will almost certainly be underreported.
- There is no robust, reliable evidence as to size of crime reduction in response to CCTV installation or DBS checks. Without this, it is difficult to estimate the Do Something cost of crime associated with taxis and PHVS.

There is, however, some evidence for success in the use of CCTV in licensed vehicles. A report from a Sheffield Taxi Camera Safety Project showed a dramatic fall in crimes after CCTV was installed in a sample group of vehicles (from 15% to 1% of all fares monitored). Although the study suffers from methodological limitations<sup>23</sup> the results indicate that there is scope for a significant reduction in the rate of crime following the introduction of CCTV requirements.

For crimes committed by drivers, the efficacy of the CCTV recommendation will depend on the level of take-up by licensing authorities across the country. If uptake is not high, there will be an incentive for drivers with ill intentions to seek to obtain licenses in authorities which do not mandate CCTV. This

<sup>22</sup> The economic and social costs of crime against individuals and households 2003/2004

<sup>23</sup> The study's results are limited by the lack of a control group to measure the impacts of CCTV on crime prevention.

should not however alter the effectiveness of the recommendation in reducing crimes committed against drivers.

### Northumbria Case Study

As mentioned previously, we have not been able to monetise benefits because of a lack of data on rate of deterrence of crime, and no data on actual crimes. Table 6 and Figure 1 shows a small case study on the number and the value of crimes in Northumbria.

Using the data below obtained from Northumbria Police and taking the taxi and PHV statistics<sup>24</sup> from the Department we carry out an impact assessment only focusing on Northumbria. We also carry out a breakeven analysis to highlight the amount of crimes that would need to be avoided in order for the policy to break even. We believe this is a useful exercise and can be indicative of the size of the impacts that could be expected as a result of this policy.

**Table 6 Northumbria Cost of Crime (2014 £)**

Type of crime	Number of crimes	Costs of crime
Sexual offences	33	£1,357,700
Thefts	218	£180,600
Robbery	12	£114,200
Theft from motor vehicle	93	£104,300
Damage (motor vehicle)	140	£158,400
Assaults	301	£566,400
Make off w/o payment	1183	£15,500
<b>Total Cost of Crime</b>	<b>1980</b>	<b>£2,497,100</b>

Source: FOI Northumbria Police and Home Office

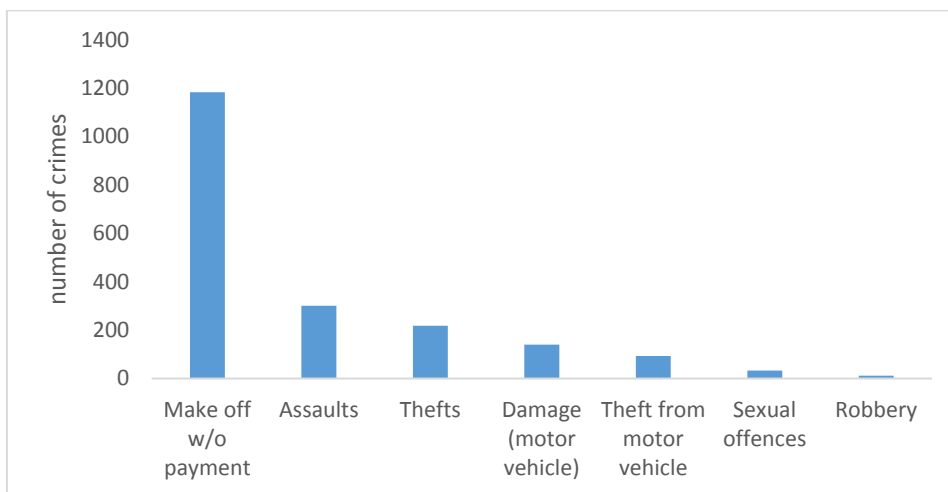


Figure 1: Number and Type of Crimes in Northumbria

Source: Northumbria Police FOI

Using the values in table 6 above we calculate that the total cost of relevant crime in Northumbria in 2014 was £2.49m. From our impact assessment focusing on Northumbria we find that our best estimate of the Net Present Value as a result of the policy is -£7.82m. Over the 10 years of the policy this

<sup>24</sup> The number of taxis and PHVs in 2018

translates to an average of -£0.877m per year. This implies that in order for the CCTV policy to break even approximately 35 per cent of crimes would need to be avoided every year for the costs of this policy to be offset by the benefits of crime prevention. Although the literature suggests the benefits of crime prevention due to CCTV is mixed, there is evidence to suggest that at least some of this crime is likely to be prevented after the installation of CCTV. If we couple this with the numerous wider benefits such as enhanced passenger safety and enhanced user confidence that such a policy creates it is likely that the benefits will outweigh the costs of the policy.

## **Indirect Benefits**

### **Lower Insurance Costs**

Although very difficult to ascertain, one of the benefits which may accrue to drivers from reduced crime would be lower insurance costs for drivers. As the rate of crime falls, insurance claims may also be likely to fall and therefore insurance premiums would fall. Depending on the pass through effect of lower operating costs to drivers this may also feed through to lower fares for passengers.

### **Enhanced User Confidence**

An increase in CCTV leading to a reduction in crime could lead to enhanced user confidence and passenger safety which may facilitate higher passenger demand. A survey by Southampton City Council found that CCTV makes the public feel safer and of the 538 respondents, 96% supported the mandating of CCTV. This increase in patronage will lead to higher profits for drivers. If some of these passengers may not have travelled before than this may have a positive impact on the economy in terms of productivity. This benefit may be particularly effective at increasing passenger demand in more vulnerable groups such as the elderly or the disabled.

## **Risks and assumptions**

### **Risks**

Due to the prevalence of underreporting of crimes this analysis may actually underestimate the benefits that could accrue if the measures proposed in the draft statutory guidance were mandated. This presents a source of upside risk in this impact assessment.

In order to carry out the analysis it was necessary to provide an assumption on the take-up rates of the policy. Due to the inherent uncertainty on the exact percentage of vehicles mandated to undertake the recommendations in the draft statutory guidance we felt it prudent to present two scenarios which we think reflects feasible ranges of up-take. The risk is that there is universal take up and this analysis therefore underestimates the costs as a result of the policy. Of course, if there is universal take-up there will also be an increase in the benefits that will be generated in the form of crime prevention and enhanced user confidence.

Another risk associated with this policy is that those licensing authorities who decide not to implement the measures proposed in the draft statutory guidance may attract drivers who are more likely to commit crimes will migrate to another authority, for example where CCTV is not mandatory. We do think that a majority of the fleet will be subject to the full range of recommendations in the draft statutory guidance and believe that this would still provide significant benefits to make the policy value for money. An increased evidence base of the efficacy of CCTV in reducing crime in licensed vehicles may influence the decision of the authorities that do not initially adopt this option.

We have also made an assumption that the average cost of installing CCTV's for the purpose of the analysis is £608, giving the varying costs we received from industry. There is the risk that a CCTV standard is introduced implying all LA's implementing the policy will have to use the same type of equipment. If the equipment costs more than our estimate here this would increase the overall costs of the policy. We have however highlighted that drivers will be able to claim tax relief on the equipment which may ease the overall burden on them.

## **Assumptions**

One of the major sources of uncertainty in this impact assessment is the take up rates of CCTV installation. As this is so uncertain we have decided to use two different take up rates, On the one hand, we could have a situation where there is a significant uptake in licensing authorities that have a comparatively lower fleet of cars resulting in a relatively low take up rate overall. On the other hand if licensing authorities with a relatively high proportion of the total fleet decide to take up the guidance we could have a much higher rate. We therefore present two take up rates a conservative 50% (low) take up rate and a more optimistic 75% (high) take up rate.

In order to not over complicate the analysis, we have made an assumption that the number of vehicles that need to replace their CCTV cameras after five years is the same as in the implementation year. In other words we have assumed that we are at the steady state number of vehicles and operators. This implies that no additional vehicles would need to install CCTV after the first year. In reality we might expect the level of vehicles to increase over time and be subject to CCTV but we think overall this is proportionate.

In the interest of reducing the complexity of the analysis we have assumed that all PHV and taxi licence holders are sole traders. This treats them each as a business and in effect is a more cautious assumption. This assumption also allows us to calculate the direct costs to business that we expect from the policy in the form of the EANDCB.

We have also made an assumption that the proportion of operators who familiarisation costs will apply to is the same as the assumption on the number of vehicles in our low and high scenarios. In other words, in our low scenario, approximately 50 per cent of operators will need to familiarise themselves with all the measures proposed in the draft guidance. These costs, however are comparatively small and therefore have minimal impact on the total costs.

## **Social impacts**

### **Equalities Impact**

The Department has undertaken an equality screening assessment. These recommendations, if adopted as proposed, will place a burden on local licensing authorities, drivers and/or owners of taxis and PHVs and PHV operators regardless of any protected characteristics these individuals might have. While we anticipate that there will be variations in the people affected by these recommendations this is a function of the nature of those within the taxi and PHV sector (drivers, vehicles owners, PHV operators and their staff) there is no evidence to suggest that it will affect any one equality group within this population disproportionately at a national.

It is expected that the recommendations, if adopted by local licensing authorities, would be applied equitably but this is the responsibility of local authorities and could be subject to challenge. We expect that both drivers and passengers will benefit from a safer environment in which to travel. We also expect that the policy will increase user confidence and may facilitate higher passenger demand from more vulnerable groups such as the elderly or those with disabilities.

### **Direct Costs and Benefits to Business**

For the analysis we have assumed that all PHV and taxi license holders are self-employed and are therefore treated as a business. This means that taxi and PHV drivers will likely bear the full direct cost of installing CCTV. From consultations with industry we have calculated an average cost of £608 to install the CCTV equipment. We have also estimated that the average life of a camera is 5 years and therefore needs to be replaced once over the time period of our analysis. Familiarisation costs will also apply to all PHV and taxi drivers and operators as they will need to learn how to comply with the final statutory guidance and how best to use the equipment. These costs will only apply in the year of implementation and will range from £2.85m to £4.27m. In total we have estimated that the equivalent



annual net direct cost to business (EANDCB) is -£18.10m in the low scenario, -£27.15m in the high scenario with a central estimate of -£22.62m.

## **Small and Micro Business Assessment (SaMBA)**

Due to the nature of the data, it has not been possible to obtain information on the relative size of PHV operators in terms of the number of employees. Although there are likely a significant number of PHV operators who are small or micro in size, it is impossible to predict which operators would be required to implement the policies proposed and we have therefore been unable to carry out the SaMBA assessment. If we assume that all taxi and PHV drivers are sole traders and therefore are counted as businesses, then the costs of purchasing and installing the equipment will fall on them as well as the familiarisation costs. The costs overall from installing the CCTV and replacing it comes out to around £1200 over the 10 years for each driver. The advantage that drivers will have is that the CCTV costs will be tax deductible. In addition to this, drivers may decide to offset some of these costs by increasing fares. We have also received some evidence of leasing options available in some areas allowing drivers to lease the CCTV equipment rather than purchase it outright. If widely available this option would substantially reduce the upfront costs to drivers and smooth this cost over a number of years.

Ultimately however, the total impact on business will depend on the take up rate of the final statutory guidance. It is important to note that under some circumstances it may be prudent to provide an exemption to small and micro business due to the disproportionate cost impact that such policies may have. In this case, however, if these businesses were exempt then the policy would fail to meet its objective.

## **Summary and Preferred Option**

This impact assessment proposes to implement statutory guidance in the taxi and PHV markets. In particular, the draft statutory guidance recommends installing CCTV in all taxis and PHVs in order to protect children and vulnerable adults from harm. This recommendation would not only protect passengers from harm but it would also protect drivers from potentially violent passengers as CCTV is believed to be a major deterrent of crime.

The most significant cost associated with the draft statutory guidance is the cost of installing and maintaining the CCTV. Our best estimate suggests that this cost would fall between £152.92m and £229.38m across our two scenarios. We also expect that there will be some familiarisation costs associated with learning and complying with the particulars of the policy. Our estimates for this range between £2.85m and £4.27m and would apply only in the implementation year of the policy.

There would also be costs that fall on licensing authorities and these mainly relate to assessing the rationale for the policy and, if applicable, developing detailed download and privacy policies that comply with wider regulation. There would also be some costs associated with the roll-out of the policy involving the wider dissemination of information to the public and drivers. We have not been able to accurately monetise this cost due to the heterogeneity across licensing authorities. We have, however, received and estimate of the costs from a licensing authority who implemented a similar policy which suggests that the cost would be somewhere in the region of £18000.

Some of the expected benefits as a result of installing CCTV include crime prevention, increased passenger safety and enhanced public confidence. Although we have not been able to monetise the benefits of the draft statutory guidance, we do believe that the policies will be effective and that the benefits would exceed the costs. In particular, we highlight a case study in Northumbria whereby the policies only needs to generate a 35 per cent reduction in crime for it to breakeven. We believe given the significant under reporting of crime, this is a very achievable result.



Department  
for Transport

# **Taxi and Private Hire Vehicle Licensing: Protecting Users**

## **Statutory Guidance for Licensing Authorities**



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## 1. Introduction

- 1.1 The Department first issued Best Practice Guidance to assist those licensing authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades in 2006. Following consultation with stakeholders, taking into account their feedback on the original version, the Guidance was revised and updated in 2010.
- 1.2 There is evidence to support the view that taxis and PHVs are a high-risk environment. In terms of risks to passengers, this can be seen in the number of sexual crimes reported which involve taxi and PHV drivers. Data from Greater Manchester<sup>1</sup> and Merseyside<sup>2</sup> on reported sexual assaults suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83% in the Crime Survey for England and Wales<sup>3</sup>.
- 1.3 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this guidance, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the Care Act 2014<sup>4</sup>, which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
  - (b) is experiencing, or is at risk of, abuse or neglect, and
  - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.4 There is consensus that common core minimum standards are required to regulate better the taxi and PHV sector, and the recommendations in this document are the result of detailed discussion and consideration. **The Department therefore expects these recommendations to be implemented unless there is compelling local reason not to.**

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1 [https://www.whatdotheyknow.com/request/sex\\_attacks\\_2](https://www.whatdotheyknow.com/request/sex_attacks_2)

2 [https://www.whatdotheyknow.com/request/taxi\\_private\\_hire\\_related\\_rapes#incoming-286178](https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178)

3 <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

4 <http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted>

- 1.5 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Guidance issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxis and PHVs was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate the sector, this guidance would however cease to apply.
- 1.6 All local authorities and district councils that provide children’s and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the *Working Together to Safeguard Children*<sup>5</sup> statutory guidance.
- 1.7 This new Statutory Guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department’s Best Practice Guidance was last updated. This includes extensive advice on 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 replaced the Notifiable Occupations Scheme).
- 1.8 This Statutory Guidance replaces relevant sections of the Best Practice Guidance issued by the Department in 2010. A consultation on revised Best Practice Guidance, which focuses on recommendations to licensing authorities to assist them in setting appropriate standards (other than those relating to passenger safety) to enable the provision of services the public demand, will be taken forward once the final Statutory Guidance has been issued.

### Terminology

Taxis are referred to in legislation, regulation and common language as ‘hackney carriages’, ‘black cabs’ and ‘cabs’. The term ‘**taxi**’ is used throughout this guidance and refers to all such vehicles. Taxis are able to be hired immediately by hailing on the street or at a rank.

Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All PHV journeys must be pre-booked via a licensed PHV operator and are subject to a ‘triple licensing lock’ i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term **PHV** is used throughout this guidance to refer to all such vehicles.

<sup>5</sup> <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

## 2. Statutory Guidance

### Consideration of the Statutory Guidance

- 2.1 The Government set out in the Modern Crime Prevention Strategy<sup>6</sup> the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too.
- 2.2 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and PHV licensing regimes. Both the Jay<sup>7</sup> and Casey<sup>8</sup> reports on CSAE highlighted examples of taxi/PHV drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.3 The Casey Report made clear that weak and ineffective arrangements for taxi and PHV licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies, holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the formulation of this Statutory Guidance.
- 2.4 This Statutory Guidance is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.5 The Guidance 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 PHV licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.6 “Having regard” to guidance requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that this is statutory guidance issued directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these recommendations cannot be overestimated.** It is not a question of box ticking; the recommendations must be considered rigorously and with an open mind.
- 2.7 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that this Guidance might be drawn upon in any legal

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<sup>6</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/509831/6.1770\\_Modern\\_Crime\\_Prevention\\_Strategy\\_final\\_WEB\\_version.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf)

<sup>7</sup> [https://www.rotherham.gov.uk/downloads/file/1407/independent\\_inquiry\\_cse\\_in\\_rotherham](https://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham)

<sup>8</sup> <https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>



challenge to an authority's practice, and that any failure to adhere to the Guidance without sufficient justification could be detrimental to the authority's defence. **In the interest of transparency however, the Department encourages all licensing authorities to publish their consideration of the recommendations contained in this Guidance and the policies and delivery plans that stem from these. The Department has already undertaken to monitor the effectiveness of the Statutory Guidance in achieving an appropriately high level of standards in taxi and PHV licensing with regard to the protection of passengers.**

- 2.8 This Guidance does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

### Licensing policy

- 2.9 The Department encourages licensing authorities to create a cohesive policy document that brings together all their procedures on taxi and PHV licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 2.10 When formulating a taxi and PHV policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the report by Dame Louise Casey CB of February 2015 on safeguarding failings<sup>9</sup>.

*"It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride."*

- 2.11 The long-term devastation caused by CSAE was summarised in the same report:

*"Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction."*

9

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/401125/46966\\_Report\\_of\\_Inspection\\_of\\_Rotherham\\_WEB.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/401125/46966_Report_of_Inspection_of_Rotherham_WEB.pdf)

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- 2.12 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and PHV sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere are well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 2.13 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. It is therefore recommended that licensing authorities regularly review their licensing policies and their performance, but should also consider interim reviews should there be significant issues arising in their area.

### Fit and proper test

- 2.14 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or PHV driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

**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?**

- 2.15 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 2.16 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 2.19 below) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that **an applicant or licensee should not be 'given the benefit of doubt'**. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can therefore include information that goes beyond criminal convictions.

### Administration of the licensing framework

- 2.17 A policy is only as effective as the way it is administered. The taxi and PHV licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions where considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation.
- 2.18 It is essential that all those involved in the determination of licensing matters have received sufficient training and are adequately resourced to allow them to discharge the function effectively and correctly. The Department for Transport

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supports the recommendation of the LGA that, as a minimum, training should cover licensing procedures, natural justice, understanding the risks of CSAE and disability and equality awareness in addition to any other issues deemed appropriate. Training should not simply relate to procedures, but should also cover the making of difficult and potentially controversial decisions – the use of case study material can be helpful to illustrate this. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and the LGA can assist in the development of training packages.

2.19 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:

- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
- any implications of the Human Rights Act should be considered.
- the rules of natural justice should be observed.
- decisions must be reasonable and proportionate.
- where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
- decision makers must avoid bias (or even the appearance of bias) and predetermination.

2.20 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

2.21 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 2.19. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service

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generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.

- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

2.22 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees. Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

2.23 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers, however this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

2.24 Regardless of which approach is adopted, all councils 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.

### Whistleblowing

2.25 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in this Guidance and believe that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of this Guidance is to protect children and vulnerable adults, and by extension the wider public, when using taxis and PHVs. However, it is in the application of these policies (and the training and raising of awareness among those applying them) that protection will be provided. 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. It is therefore recommended that licensing authorities have effective internal procedures for staff to raise concerns and procedures in place for any concerns to be dealt with openly and fairly.

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

2.26 The external investigation in South Ribble concluded “*that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and PHV] passengers in the manner in which licensing issues were addressed*”. We are pleased to note that the report concludes<sup>10</sup>, “*The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.*”

2.27 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it. If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.

2.28 The Public Interest Disclosure Act 1988 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected.

### Implementing changes to licensing policy and requirements

2.29 It is important to remember that any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet

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<sup>10</sup> [http://www.southribble.gov.uk/sites/default/files/FINAL\\_REPORT\\_JUNE\\_2016.pdf](http://www.southribble.gov.uk/sites/default/files/FINAL_REPORT_JUNE_2016.pdf)

the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.

- 2.30 Where a more subjective change has been introduced, for example an amended policy on previous convictions, licensing authority must still consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities are able to do so. Licensing authorities should record the reasons for any deviation from the policies in place.

### The Disclosure and Barring Service

- 2.31 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children. Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants.
- 2.32 The DfT's 2018 survey of taxi and PHV licensing authorities<sup>11</sup> shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal. The Department considers that all licensing authorities should also request a check of the barred lists in addition to the enhanced DBS check, for individuals applying for or renewing taxi and PHV driver licences.
- 2.33 Enhanced certificates with check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. The filtering rules allow for certain old and minor convictions to be removed from a DBS certificate after an appropriate period has passed, but they do not allow filtering where an individual has more than one conviction, has received a custodial sentence or has committed a specified serious offence such as those involving child sexual abuse. Full details of the filtering rules, and those offences which may never be filtered, are available from the DBS<sup>12</sup>. As well as convictions and cautions, an

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11 <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2018>

12 <https://www.gov.uk/government/collections/dbs-filtering-guidance>

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enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the detailed statutory guidance<sup>13</sup> when considering disclosure. The information provided at each level of DBS checks is summarised in table 1.

- 2.34 It should be noted that licensing authorities must not seek to circumvent the legitimate filtering of previous criminal convictions and other information held by the DBS. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.
- 2.35 Whilst data protection legislation<sup>14</sup> gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, you must not require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This is an offence under data protection legislation.
- 2.36 Driving a taxi or PHV is not, in itself, a regulated activity. This means that an individual subject to barring would not be legally prevented from being a taxi or PHV driver but the licensing authority should take an individual's barred status into account alongside other information available. It is the Department's opinion that, in the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list. Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 2.37 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006<sup>15</sup>. It is an offence to knowingly allow a barred individual to work in regulated activity. The guidance on home-to school travel and transport<sup>16</sup> issued by the Department for Education should be considered alongside this document. Please see DBS guidance on driver eligibility and how to apply.

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13 <https://www.gov.uk/government/publications/statutory-disclosure-guidance>

14 the full range of data protection legislation, not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)

15 <https://www.legislation.gov.uk/ukpga/2006/47/contents>

16 <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

INFORMATION INCLUDED IN CRIMINAL RECORD CHECKS				
Information included	Type of check			
	Basic	Standard DBS	Enhanced DBS	<b>Enhanced DBS (including barred list check)</b>
Unspent convictions	Yes	Yes	Yes	<b>Yes</b>
Unspent cautions <sup>1</sup>	Yes	Yes	Yes	<b>Yes</b>
Spent convictions <sup>2</sup>	No	Yes	Yes	<b>Yes</b>
Spent cautions <sup>1&amp;2</sup>	No	No	Yes	<b>Yes</b>
Additional police Information <sup>3</sup>	No	No	Yes	<b>Yes</b>
Barred list(s) Information <sup>4</sup>	No	No	No	<b>Yes</b>

Table 1

1. Cautions include reprimands and warnings, but not fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not disclosed on any level of certificate. Further guidance is available at <https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide>.
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).



## DBS update service

- 2.38 Licensing authorities should make use of the DBS update service. This subscription service allows licensees to keep their DBS certificates up to date online and, with the individual's consent, allows licensing authorities (as a nominee) to check the status of a certificate online at any time. Subscription to the service removes the need for repeat checks, reduces the administrative burden and mitigates potential delays in relicensing. Licensees should be required to evidence continuous registration and nomination throughout the period of the licence.
- 2.39 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the level and type of DBS certificate. For criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months. Licensing Authorities should therefore consider routinely checking the DBS certificates of their licence holders, for example every six months.
- 2.40 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check facility that can be accessed via a web service. The Multiple Status Check facility enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the Multiple Status Check facility is available from the DBS.<sup>17</sup> As discussed above, for taxi and PHV driver licensing purposes the recommended level of check is always the enhanced level with check of the adult and children Barred lists. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2.

## Licensee self-reporting

- 2.41 As discussed above, the DBS update service is a valuable tool in discharging a licensing authority's duty to ensure that licence holders are fit to hold a licence. However, the routine checking of the DBS record should be in addition to a requirement that licence holders notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any motoring offence, or any offence involving dishonesty, indecency or violence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.
- 2.42 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of, would be a breach of a licence condition and might therefore be seen as behaviour that questions honesty and

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<sup>17</sup> <https://www.gov.uk/government/publications/dbs-update-service-multiple-status-checking-guide>

therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

### Referrals to DBS and the police

2.43 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS; for example, 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. The power for the licensing authority to in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the DBS<sup>18</sup>.

2.44 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the ‘harm test’; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;
- the DBS may consider it appropriate for the person to be added to a barred list.

2.45 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is available<sup>19</sup>.

2.46 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

### Overseas convictions

2.47 **The DBS cannot access criminal records held overseas.** Therefore, a DBS check may not provide a complete picture of an individual’s criminal record where there have been periods living or working overseas. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before

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18 <https://www.gov.uk/government/publications/dbs-barring-referrals-local-authority-referral-duty-and-power/referral-duty-and-power-for-local-authorities-and-regulatory-bodies#local-authorities-as-regulated-activity-providers>

19 <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

the age of 18 may not be relevant. For information on applying for overseas criminal record checks or ‘Certificates of Good Character’ please see the Home Office guidance<sup>20</sup>. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.

- 2.48 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

### Conviction policy

- 2.49 In considering an individual’s criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.
- 2.50 Engagement with licensing authorities identified that greater direction from the Department was sought and in some cases required. The Department did not make specific recommendations regarding the assessment of convictions in the 2010 update of the Best Practice Guidance. In response to concerns raised by stakeholders and to assist in greater consistency in licensing, Annex A provides the Department’s recommendations on this issue. This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and PHV licensees<sup>21</sup>. These periods should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. The Department’s view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that each case must be considered on its own merits, and applicants are entitled to a fair and impartial public hearing of their application if required.

### Common Law Police Disclosure

- 2.51 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and PHV drivers.

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<sup>20</sup> <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

<sup>21</sup> [https://instituteoflicensing.org/documents/Guidance\\_on\\_Suitability\\_Web\\_Version\\_\(16\\_May\\_2018\).pdf](https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

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Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.

- 2.52 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 2.53 The new procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. We would therefore strongly recommend that licensing authorities maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.

### Other information

- 2.54 The LGA's Councillors' Handbook on taxi and private hire vehicle (PHV) licensing<sup>22</sup> advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*"
- 2.55 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police we strongly recommend that action taken as a result of information received is fed-back to the police. Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 2.56 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 2.57 As has been stated elsewhere in this guidance, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. Applicants should therefore 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. For this process

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<sup>22</sup> <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.

2.58 The LGA's Taxi and PHV licensing Councillors' handbook<sup>23</sup> advises that Councils should meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared. While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and PHV driver licence refusals and revocations (the register is known as 'NR3'). The use of tools such as NR3 by licensing authorities to share information on a more consistent basis would mitigate the risk of non-disclosure of relevant information by applicants.

2.59 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and PHV driver licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published guidance to assist organisations to fully understand their obligations and suggest good practice<sup>24</sup>.

2.60 If notification under paragraph 2.57 or 2.58 of a refused or revoked license is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. The information disclosed can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would.

2.61 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 2.57, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should therefore review whether the licence holder remains 'fit and proper'.

### Multi-agency Safeguarding Hub (MASH)

2.62 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models)

<sup>23</sup> <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

<sup>24</sup> <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

should operate on three common principles: information sharing, joint decision making and coordinated intervention.

2.63 The Home Office report on Multi Agency Working and Information Sharing<sup>25</sup> recommended that effective multi-agency working still needs to become more widespread. The Children’s Commissioner’s 2013 Inquiry into Child Sexual Exploitation in Gangs and Groups<sup>26</sup> found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

2.64 The Department recommends all licensing authorities should establish a means to facilitate the objectives of a MASH. As has been emphasised throughout this guidance, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and PHVs is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

### Complaints against licensees

2.65 The LGA recommends that all councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual licensees<sup>27</sup>. Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

2.66 Licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that **must** be available on their website and displayed in licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a PHV driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged. A systematic recording of complaints will provide a further source of information to consider when renewing a licence for a driver or operator or identify problems during the period of the licence.

2.67 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

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25 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/338875/MASH.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338875/MASH.pdf)

26 [https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/07/If\\_only\\_someone\\_had\\_listened.pdf](https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/07/If_only_someone_had_listened.pdf)

27 <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

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2.68 CCTV footage of an incident can provide an invaluable insight, providing an ‘independent witness’ to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 2.104 - 2.106.

### Duration of licences

2.69 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and PHV drivers and five years for PHV operators. Any shorter duration should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case. Such circumstances could include where the licensing authority considers that a probationary period is necessary or where required (e.g. when the licence holder’s leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand.

2.70 A previous argument against this length of licence was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated by requiring licensees to subscribe to the DBS update service as discussed in paragraphs 2.38 – 2.40 and authorities to undertake regular interim checks. To help authorities monitor licensees’ suitability, police forces should inform licensing authorities when they believe a licensee presents a risk to the travelling public. Paragraphs 2.51 - 2.53 provide further information about this process.

### Safeguarding awareness

2.71 Licensing authorities should consider the role that those in the taxi and PHV industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

2.72 It is the Department’s recommendation that licensing authorities provide safeguarding advice and guidance to the trade and that taxi and PHV drivers are required to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

2.73 In February 2018, the Department for Education (DFE) launched phase 3 of its nationwide campaign – ‘Together we can tackle child abuse’. Building on phases 1 and 2, which ran in 2016 and 2017, it aims to increase public understanding of how to recognise and report child abuse and neglect. The DfE has developed an online toolkit<sup>28</sup> of material for local authorities, charities and other organisations to use to support the campaign.

### Other forms of exploitation – ‘County lines’ drug trafficking

2.74 Victims of exploitation may not appear as such at first sight. 74% of police forces noted the exploitation of vulnerable people (including children) by gangs and organised criminal networks involved in trafficking illegal drugs within the UK<sup>29</sup> to move and store drugs and money across the country, often from urban areas to regional locations. They will frequently use coercion, intimidation, violence (including sexual violence) and weapons. This gang activity (known as county lines), and the associated violence, drug dealing and exploitation has a devastating impact on young people, vulnerable adults and local communities.

2.75 The National Crime Agency’s updated annual threat assessment of county lines reported that county lines groups are using taxis and PHVs as a method of transportation. In that assessment, 33% of police forces in England and Wales (14 forces) reported use of taxis and PHVs to transport drug couriers between markets. These couriers are often young people who have been exploited and may be victims of trafficking; the typical age range is 15-17 years old, but may be much younger. They may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues or reported as missing.

2.76 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- young people, sometimes as young as 12, travelling in taxis alone;
- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances ;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

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<sup>28</sup> <https://tacklechildabuse.campaign.gov.uk/>

<sup>29</sup> <http://www.nationalcrimeagency.gov.uk/news/1247-latest-threat-update-estimates-at-least-720-county-lines-drug-dealing-lines>



- 2.77 The Home Office is working with partners to raise awareness of county lines and has produced promotional material that can be used by taxi and PHV companies.<sup>30</sup>
- 2.78 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:
- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
  - call Crime Stoppers on 0800 555 111.

### Language proficiency

- 2.79 Authorities should consider whether an applicant would have any problems in communicating with customers because of language difficulties. Licensing authorities have the freedom to specify the level of proficiency, but it is recommended to cover both oral and written English language skills necessary to fulfil their duties, including in emergency and other challenging situations. This should include:
- conversing with passengers to demonstrate an understanding of the desired destination, an estimation of the time taken to get there and other common passenger requests;
  - providing a customer with correct change from a note or notes of higher value than the given fare, and doing so with relative simplicity;
  - providing a legibly written receipt upon request.

### Enforcement

- 2.80 Implementing an effective framework for licensing authorities is essential to a well-functioning taxi and PHV sector. These steps will help prevent the licensing of drivers that are not deemed ‘fit and proper’ but does not ensure that those already licensed continue to display the behaviours and standards expected.
- 2.81 We have discussed the benefits of licensing authorities working collaboratively in regard to the sharing of information, and this can equally apply to enforcement powers. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. Together with increased clarity for the public on complaining, these measures will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and

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<sup>30</sup>[https://www.gov.uk/government/publications/county-lines-posters-for-taxi-and-private-vehicle-hire-staff?utm\\_source=HO&utm\\_campaign=LA](https://www.gov.uk/government/publications/county-lines-posters-for-taxi-and-private-vehicle-hire-staff?utm_source=HO&utm_campaign=LA)

drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the LGA Councillors' handbook<sup>31</sup>.

2.82 It is not reasonable to expect drivers to adhere to a policy unless they are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

2.83 The Department suggest that there should be a clear, simple and well-publicised process for the public to make complaints about drivers and operators. This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

### Suspension and revocation of driver licences

2.84 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds:-

(a) that he has since the grant of the licence—

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;

(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or

(b) any other reasonable cause

2.85 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. Guidance for licensing authorities to prevent illegal working in the taxi and PHV sector has been issued by the Home Office<sup>32</sup>. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

2.86 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the

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<sup>31</sup> <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

<sup>32</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/613415/A\\_Licensing\\_Authority\\_guide\\_to\\_right\\_to\\_work\\_checks\\_-\\_England\\_and\\_Wales.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/613415/A_Licensing_Authority_guide_to_right_to_work_checks_-_England_and_Wales.pdf)

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opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

- 2.87 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.
- 2.88 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.
- 2.89 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

### Criminal record checks for PHV operators

- 2.90 As with driver licensing, the objective in licensing PHV operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles they dispatch are above all else safe. It is important therefore that licensing authorities are assured that the operators they license also pose no threat to the public and have no links to serious criminal activity. Although an operator may not have direct contact with passengers, they are still entrusted to ensure that the drivers and vehicles used to fulfil a booking are appropriately licensed and so 'fit and proper'. PHV operators are also frequently provided with sensitive information such as periods when a home may be vacated as the residents are on holiday. Those making licensing decisions should consider whether they would be content for an applicant to hold sensitive information and are confident that this would not be misused.
- 2.91 PHV operators (as opposed to PHV drivers) are not eligible for standard or enhanced criminal records checks. We recommend that licensing authorities request a criminal conviction certificate (Basic disclosure) from the DBS. Any individual may apply for a Basic check and the certificate will disclose any unspent convictions recorded on the PNC. Licensing authorities should consider whether an applicant or licence holder with a conviction for offences detailed in Annex A (other than those relating to driving) meet the 'fit and proper' threshold.
- 2.92 PHV operator licences may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective PHV

operators should be required to advise the licensing authority of any changes to the directors or partners.

- 2.93 Individuals, directors or partners granted a PHV operator licence should be required to subscribe to the DBS update service as a condition of licensing and licensing authorities should consider routinely checking the DBS certificates of their licence holders, for example every six months
- 2.94 As explained earlier in the context of driver licensing, the **DBS cannot access criminal records held overseas**. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before the age of 18 may not be relevant. For information on applying for overseas criminal record checks or a 'Certificate of Good Character' please see the Home Office guidance<sup>33</sup> on criminal record checks for overseas applicants. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.
- 2.95 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in Annex A, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

### PHV Operators - ancillary staff

- 2.96 PHV drivers are not the only direct contact that PHV users have with PHV operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle controller decides which driver to send to a user, a position that could be exploited by criminals. It is therefore appropriate that all staff that have contact with PHV users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 2.97 Licensing authorities should be satisfied that PHV operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. Licensing authorities should request that, as a condition of granting an operator licence, a register of all staff that will take bookings or dispatch vehicles is kept. The operator should be required to evidence that they have had sight of a Basic DBS check on all individuals listed.
- 2.98 Operators or applicants for a licence should also be required to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a PHV operators' licence, those with a

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<sup>33</sup> <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

conviction for offences detailed in Annex A (other than those relating to driving) may not be suitable to handle the sensitive information the public may provide (e.g. that their home is likely to be empty between certain dates) or to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

- 2.99 Those granted an operator licence should be required to maintain a register of staff that take bookings and/or control vehicles and ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders.

### **PHV Operators – Use of passenger carrying vehicles (PCV) licensed drivers**

- 2.100 Members of the public are entitled to expect when making a booking with a PHV operator that they will receive a PHV licensed vehicle and driver. The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a PHV booking should not be permitted as a condition of the PHV operator's licence. Drivers of PSVs who are PCV licence holders are not subject to the same checks as PHV drivers, as the work normally undertaken, i.e. driving a bus or coach, does not present the same risk to passengers.

### **PHV Operators - record keeping**

- 2.101 Section 56 of the Local Government (Miscellaneous Provisions) Act 1976<sup>34</sup> requires PHV operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. The particulars to be recorded may be specified by the licensing authority as a condition of the operator licence. The Department recommend that this information should include:

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle.

- 2.102 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that six months is generally appropriate as the length of time that records should be kept.

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<sup>34</sup> <http://www.legislation.gov.uk/ukpga/1976/57>

2.103 PHV operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

### **In-vehicle visual and audio recording – CCTV**

2.104 Government has acknowledged the potential risk to public safety when passengers travel in taxis and PHVs. In 2012 the Government enabled licensing authorities to undertake enhanced DBS checks. The Department appreciates that all licensing authorities have recognised the risk posed by the very small minority of licensed drivers and undertake this level of check. It is unfortunately the case that no matter how complete the information available to licensing authorities is, nor how robust the policies in place are and the rigor with which they are applied, it will never remove the possibility of harm to passengers by drivers. The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/PHV passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

2.105 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the Crime Survey for England and Wales<sup>35</sup> only 17% of victims report their experiences to the police, 28% of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

2.106 The mandatory installation of CCTV in vehicles may deter people from seeking a taxi or PHV licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

2.107 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt and targeted i.e. only when

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

passengers (or drivers) consider it necessary and all parties should be made aware that a recording is being made. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 2.108 It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and PHV will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire.
- 2.109 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review.
- 2.110 The Home Office '*Surveillance Camera Code of Practice*'<sup>36</sup> advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:
- in pursuit of a legitimate aim;
  - necessary to meet a pressing need;
  - proportionate;
  - effective, and;
  - compliant with any relevant legal obligations
- 2.111 The Code also sets out 12 guiding principles which, as a 'relevant authority' under the Protection of Freedoms Act 2012<sup>37</sup>, licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

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<sup>36</sup> <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

<sup>37</sup> [Section 33\(5\) of the Protection of Freedoms Act 2012](#)

- 2.112 The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '*Passport to Compliance*'<sup>38</sup> which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office<sup>39</sup> (ICO) has also published a code of practice which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a self-assessment tool<sup>40</sup> to assist operators to ensure compliance with the principles set of in the Surveillance Camera Code of Practice. The SCC also operate a certification scheme<sup>41</sup>; authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.
- 2.113 The Data Protection Act 2018<sup>42</sup> regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access and to erasure. The ICO has provided detailed guidance<sup>43</sup> on how data controllers can ensure compliance with these.
- 2.114 It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in guidance<sup>44</sup> that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc. Licensing authorities should consult on this issue 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 PHV users, including children or vulnerable adults.
- 2.115 It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the

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38 <https://www.gov.uk/government/publications/passport-to-compliance>

39 <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

40 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-self-assessment-tool>

41 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-third-party-certification-scheme>

42 <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

43 <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

44 <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/security/>



licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

- 2.116 All passengers must be made aware if CCTV is operating in a vehicle. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems.

### Stretched Limousines

- 2.117 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as PHVs. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. Indeed, the Department's view is that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding service from the scope of the PHV regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 2.118 Stretched large limousines which clearly have more than eight passenger seats should not in most circumstance be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some circumstances the Individual Vehicle Approval (IVA) regime accepts vehicles with space for more than eight passengers, particularly where the precise number of passenger seats is hard to determine. In these circumstances, if the vehicle has obtained an IVA certificate, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

### Consultation at the local level

- 2.119 It is good practice for licensing authorities to consult on any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women's groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult

## February 2019 – consultation version

with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy's activities.

- 2.120 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and PHV sector in neighbouring areas; it would therefore be good practice to engage with these to identify any concerns and issue that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; the Department considers this approach to be good practice.

## Annex A – Previous convictions guidance

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is ‘fit and proper’ to hold a taxi or PHV licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial public hearing of their application if required. The periods given below should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. The Department’s view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

### Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

### Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

### Offences involving violence

Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

### Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Sex and indecency offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

### Dishonesty

Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a

licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### **Discrimination**

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### **Motoring convictions**

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction of a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or PHV driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

### **Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving**

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

## Annex B - Staying safe: guidance for passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and PHVs e.g.:

- a taxi can be flagged down or pre-booked.
- a PHV that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a PHV should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

# Taxi and private hire vehicle licensing: protecting users

## 1. Introduction

Thank you for taking the time to read the consultation document and to respond to the questions. Your answers will help us to firm up statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults.

The easiest way to respond to this consultation is online:

<https://www.smartsurvey.co.uk/s/taxis-licence/>

The online version allows you to save your response and continue it later and to save or print off a copy for your records.

### Confidentiality and data protection

The Department for Transport (DfT) is carrying out this consultation to gather views and evidence on measures for inclusion within the statutory guidance issued to taxi and PHV licensing authorities. This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department. If your answers contain any information that allows you to be identified, DfT will, under data protection law, be the controller for this information.

As part of this consultation we're asking for your name and email address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions.

We may contract a third party to analyse the responses we receive to the consultation. If you provide your contact details, we may share this information with a contractor in case they need to contact you regarding your consultation response.

DfT's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at <https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>.

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Your information will be kept securely and destroyed within 12 months after the consultation has been completed. Any information provided through the online questionnaire will be moved from their system to our internal systems within 2 months of the consultation end date.

Find out more about the [Department for Transport's data protection and privacy policy](#).

## 2. Personal details

**1. Your name and email address. We will only use this if we need to contact you to ask about any of your responses.**

Your name

Your email

### 3. About you

**2. Are you responding: \***

- as an individual?
- as a taxi driver?
- as a PHV driver?
- as a taxi intermediary?
- as a PHV operator?
- a licensing authority
- the police
- other (specify)?



## 4. Administration of the licensing framework

**3. The draft statutory guidance recommends that all those involved in the determination of licensing matters should receive training covering licensing procedures, natural justice, child sexual abuse and exploitation, disability and equality in addition to any other issues deemed locally appropriate (paragraph 2.18). Do you agree with the recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

**4. The draft statutory guidance recommends a council structure for dealing with licensing matters (paragraphs 2.20-2.24). Do you agree with this proposed structure?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 5. Implementing changes to the licensing policy and requirements

5. The draft statutory guidance recommends that all issued licences should be reviewed following changes in licensing policy (paragraph 2.29). Do you agree with this recommendation?

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 6. The Disclosure and Barring Service

**6. The draft statutory guidance recommends that all drivers should be subject to an enhanced Disclosure and Barring Service (DBS) with barred lists check for individuals applying for or renewing taxi and PHV driver licences (paragraph 2.32). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

**7. The draft statutory guidance recommends that all licence holders should be required to subscribe to the DBS update service (paragraph 2.38). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

**8. The draft statutory guidance recommends that appropriate DBS checks are conducted every 6 months (paragraph 2.39). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 7. Licensee self-reporting

**9. The draft statutory guidance recommends that drivers and operators should be required to notify the issuing authority within 48 hours upon arrest and release, charge or conviction of any motoring offence or any offence involving dishonesty, indecency or violence (paragraph 2.41). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 8. Referrals to DBS and the police

**10. The draft statutory guidance recommends that licensing authorities should make referrals to the DBS when it considers that an applicant or licence holder is thought to present a potential risk of harm to the public (paragraph 2.43). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 9. Overseas convictions

**11. The draft statutory guidance recommends that a check of overseas criminality information or ‘Certificate of Good Character’ should be required, when an individual has spent a period of more than 3 continuous months outside the UK when over the age of 18 (paragraph 2.47). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 10. Other information

**12. The draft statutory guidance recommends that licensing authorities should require applicants / licensees to disclose if they have been licensed elsewhere, or have had an application for a licence refused, or have had a licence revoked or suspended by any other licencing authority (paragraph 2.57). Do you agree with this recommendation?**

- Yes  
 No  
 No opinion

Comment below if you want to explain your answer.

**13. The draft statutory guidance recommends that licensing authorities should use tools such as the national register of taxi and PHV driver licence refusals and revocations (NR3) to improve information sharing (paragraph 2.58). Do you agree with this recommendation?**

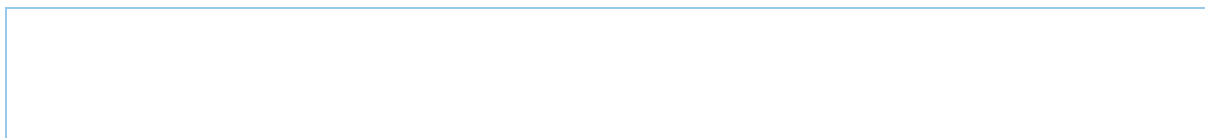
- Yes  
 No  
 No opinion

Comment below if you want to explain your answer.

**14. The draft statutory guidance recommends that the authority considering the application / renewal should consult and consider other licensing decisions in its assessment, when an applicant / licensee discloses they: have had an application refused, or had a licence revoked or suspended elsewhere (paragraph 2.60). Do you agree with this recommendation?**

- Yes  
 No  
 No opinion

Comment below if you want to explain your answer.





## 11. Multi-agency safeguarding hub (MASH)

**15. The draft statutory guidance recommends that multi-agency safeguarding hubs (or similar) should be established by licensing authorities to improve the sharing of relevant information (paragraph 2.64). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 12. Complaints against drivers and operators

**16. The draft statutory guidance recommends that licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that must be displayed in licensed vehicles (paragraph 2.66). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 13. Safeguarding awareness

**17. The draft statutory guidance recommends that all licensing authorities should require drivers to undertake safeguarding training as a condition of licensing (paragraph 2.72). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 14. Language proficiency

**18. The draft statutory guidance recommends that all licensing authorities should consider whether an applicant for a licence is able to communicate in English orally and in writing with customers (paragraph 2.79). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 15. Enforcement

**19. The draft statutory guidance recommends that 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 (paragraph 2.81). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 16. Criminal record checks for PHV operators

**20. The draft statutory guidance recommends that PHV operators (applicants or licensees) should be subject to a basic DBS check (paragraph 2.91). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 17. PHV operators - ancillary staff

**21. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles (paragraph 2.97). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

**22. The draft statutory guidance recommends that PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the above register (paragraph 2.97). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

**23. The draft statutory guidance recommends that PHV operators should be required to provide to the licensing authority their policy on employing ex-offenders that will take bookings or dispatch vehicles as a condition of licensing (2.98). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.





## 18. PHV operators - use of passenger carrying vehicles (PCV) licensed drivers

24. The draft statutory guidance that a PHV operator may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking. This would be a condition of the operator's licence (paragraph 2.100). Do you agree with this recommendation?

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 19. PHV operators – record keeping requirements

**25. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to record the information detailed in paragraph 2.101. Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 20. In-vehicle visual and audio recording - CCTV

**26. The draft statutory guidance recommends that licensing authorities should carefully consider potential public safety benefits and potential privacy issues when considering mandating that taxis and PHVs have CCTV installed (paragraphs 2.104 to 2.109). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

**27. The draft statutory guidance recommends that CCTV recordings in taxis and PHVs should be encrypted and accessible only by licensing authority officials (if acting a data controller), the police or when subject to a data subject access request (paragraph 2.114). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 21. Stretched limousines

**28. The draft statutory guidance recommends that licensing authorities should consider licensing vehicles with an Individual Vehicle Approval certificate, even if the passenger capacity is unclear, but under the strict condition that the vehicle will not be used to carry more than 8 passengers (paragraph 2.118). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

## 22. Previous convictions guidance

**29. The draft statutory guidance recommends that the Department for Transport should issue guidance on the assessment of previous convictions (paragraph 2.50). Do you agree with this recommendation?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

**30. Annex A of the draft statutory guidance provides a list of offences to aid consistency in the 'fit and proper' assessment for licences. Do you think that the list provides enough detail to do this?**

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

**31. Are there any offences that should be added to the list in Annex A?**

- Yes
- No
- No opinion

## 23. Other offences

32. If you answered yes, please list the offence(s) and the period you consider appropriate to prevent the granting of a licence under most circumstances.

## 24. Impact assessment

**33. Do you have data relating to alleged offences committed in licensed vehicles either against or by passengers? If you have and are prepared to share this with us please add to your response.**

**34. If have any comments or other data that may be relevant to the Impact Assessment please provide this.**





## Ways to respond

Email this completed document to:

[SG-Consultation2019@dft.gov.uk](mailto:SG-Consultation2019@dft.gov.uk)

Or post it to:

Department for Transport  
Buses and Taxis Division (Statutory Guidance 2018 Consultation)  
Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

**7. NATIONAL REGISTER OF TAXI AND PRIVATE HIRE LICENCE REVOCATIONS AND REFUSALS NR3 (ENVIRONMENTAL SERVICES – LICENSING)**

**Synopsis of report:**

**To advise the Committee of the National Register of Taxi And Private Hire Licence Revocations and Refusals NR3, as implemented by the Local Government Association (LGA) and National Anti-Fraud Network (NAFN).**

**To introduce related amendments to Runnymede’s Hackney Carriage and Private Hire Licensing Policy.**

**Recommendation that:**

- i) the Committee adopts the National Register of Taxi Licence Revocations and Refusals NR3 and the guidance produced by the Local Government Association (LGA) and National Anti-Fraud Network (NAFN); and**
- ii) the proposed amendments to Runnymede’s Hackney Carriage and Private Hire Licensing Policy be approved**

**1. Context of report**

- 1.1 A National Register of Taxi Licence Revocations and Refusals has been developed by the Local Government Association (LGA) and National Anti-Fraud Network (NAFN).
- 1.2 Prior to this development, licensing authorities could not know if an applicant for a hackney carriage and private hire vehicle (PHV) drivers licence had been licensed with another authority and whether there were any concerns about that driver’s conduct when licensed with that authority.

**2. Report**

- 2.1 Licensing Authorities are required to satisfy themselves that those holding hackney carriage and private hire vehicle (PHV) driver licenses are ‘fit and proper’. In a case where evidence is obtained that suggests that a licensed individual is not a fit and proper person, the licensing authority is entitled to suspend, revoke or refuse to renew a licence.
- 2.2 The process of assessing the ‘fit and proper’ test varies between authorities and there is widespread recognition of the need to increase consistency and introduce national minimum standards.
- 2.3 Currently, if applicants do not disclose information about a previous revocation or refusal of a licence, there is often no way for a 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 their licence revoked elsewhere.
- 2.4 In response to this issue, the Local Government Association (LGA) commissioned the National Anti-Fraud Network (NAFN) to develop the ‘National Register of Refusals and Revocations NR3, (the “register”)

- 2.5 The 'register' allows licensing authorities to record details where a hackney carriage or PHV drivers' licence has been refused or revoked, and allows other licensing authorities to check new applicants against the 'register'. The 'register' does not however extend to vehicle or operator licensing decisions.
- 2.6 In using the 'register', authorities will be assisted in making an informed decision on whether an applicant is 'fit and proper' knowing that another authority has previously reached an unfavourable view on the same applicant.
- 2.7 Receipt of information from the 'register' is not to imply that an applicant who has been refused a licence on one occasion from another authority will always be refused. However, it will always be relevant for an authority to consider a previous refusal or revocation, and the reasons for that decision.
- 2.8 Attached to this report at Appendix 'E' is the guidance on adopting the 'register' produced by the LGA and NAFN. The guidance gives clear comprehensive advice on using the 'register' and stipulates the procedure that a local authority would need to follow in order to provide data for the 'register' and for the Council to access the data.
- 2.9 If the Committee is minded to adopt the 'register', it will involve the Council providing information for the database on revoked or refused licenses and responding to information requests on these data subjects in the event that the person applies to another local authority for a licence.
- 2.10 When a person applies for a licence, the database will be checked by a licensing Officer, and if an applicant appears on the database, an information request will be sent to the appropriate local authority. These checks would be carried out on new and existing drivers.
- 2.11 The reasoning behind checking existing drivers is that they are free to obtain a licence with any other authority and they are not obliged to inform any other authority that they hold other licences. Officers are aware of drivers in Runnymede who hold licences with other authorities. The situation could arise where we were unaware of a revocation or suspension of their licence with another authority and continue to licence them, thereby putting the public at risk.
- 2.12 With particular reference to the Guidance: Section 4.3 refers to historic data migration and refers to data being retained for 25 years on the 'register'. Enquiries have been made to ascertain how many applicants have had their licence/application revoked or refused by Runnymede, it appears from initial checks that this is a relatively low number, 6 have been identified so far. It will be necessary to write to each previously revoked or refused applicant and advise them that their information will be uploaded to the 'register' and the reasons for this. An individual may request that the information is not uploaded and any requests of this nature will be fully considered before a final decision is made.

### 3. **Policy framework implications**

- 3.1 The LGA have suggested the form of additional wording which could be incorporated into policies. Part 4 of Runnymede's Hackney Carriage and Private Hire Licensing Policy at Appendix 'F' contains the suggested revisions (highlighted in red) to the policy to take into account the adoption of the 'register'. This mirrors the LGA's suggestion apart from a few minor changes which give additional information. No other part of the policy is affected.

- 3.2 Application forms for hackney carriage and private hire drivers licenses will be amended to include information regarding the 'register'.
- 3.3 New applicants will be made aware that relevant information regarding the register will be included within the taxi information pack, the Council's website, hackney carriage and private hire drivers application forms and the policy. This information will include the fact that their information may be uploaded to the 'register' if their application is refused or any subsequent granted licence being revoked.
- 3.4 Additionally all existing licence holders will be made aware of the 'register' by way of a letter and email, taxi newsletters and the drivers forum.

#### **4. Resource implications**

- 4.1 Section 4.1 of the Guidance refers to membership of the NAFN and the need to sign-up data sharing and data processing agreements with NAFN. The Council is already a member of NAFN but there will be a small additional one-off cost of £10 for database registration.
- 4.2 The use of the 'register' will result in additional administration; this check would be added to the existing application process and will be accomplished in a few minutes. Further checks with other authorities, when these are required, are estimated to take no more than 15 minutes; this simply involves the completion of our data disclosure form.

#### **5. Legal implications**

- 5.1 The processes involved in participating in the register have been checked by the Council's Data Protection Officer and legal department. They are satisfied with the terms of the agreement.

#### **6. Equality implications**

- 6.1 The protected characteristics under the Equality Act 2010 are untouched by the adoption of the 'register' and the guidance.

#### **7. Other implications**

- 7.1 There are currently no statutory requirements for a local authority to participate in the 'register' although the subject of a national register has recently been included as part of a consultation on statutory guidance for licensing authorities from the Department of Transport.
- 7.2 Failure to adopt the 'register' may lead to a reputational risk to the authority for not following the LGA guidance.
- 7.3 There is also the reputational risk that this Council may grant a licence to a driver whom another authority has deemed as being unsuitable.

#### **8. Conclusions**

- 8.1 The register is seen as a logical process in taxi and private hire licensing. The lack of information regarding an applicant's history with other authorities has long been recognised as a weakness in Licensing.

#### **(To Resolve)**

#### **Background papers**

None stated.



## Guidance on adopting the National Register of Taxi Licence Revocations & Refusals (NR3)

## Contents

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2. Objective of NR3
3. Voluntary disclosure of previous licensing history
4. NR3 - an overview
  - 4.1. Accessing the register
  - 4.2. Register functionality
  - 4.3. Historic data migration
5. Updating licensing processes and procedures
  - 5.1. Informing applicants of the NR3 register
  - 5.2. Adding details of a refusal or revocation
  - 5.3. Checking the register as part of the application and renewal process
  - 5.4. Acting on detailed disclosures
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  - 6.1. Updating the licensing policy, application forms and guidance
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**Annex A** – guidance on amendments to policies and forms

**Annex B** – suggested notification to existing licensees of NR3

**Annex C** - suggested notification to former licence holders or applicants whose details will be entered onto NR3

**Annex D** – Suggested template policy relating to requests for information, disclosure of information, and use of information as a result of an entry on NR3, including template disclosure form

## 1. Background

Licensing Authorities are required to satisfy themselves that those holding hackney carriage and Private Hire Vehicle (PHV) driver licences<sup>1</sup> 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. For example when evidence is obtained that suggests that a licensed individual is not a fit and proper person the licensing authority is entitled to suspend, revoke or refuse to renew a licence.

The process of assessing whether an applicant or licensee is 'fit and proper' may vary between authorities but there is widespread consensus on the need to increase consistency and set national minimum standards for the fit and proper test at a suitably high level. This would help prevent individuals who have had a licence revoked by one authority from simply going to another area and securing a licence - assuming the second authority was aware of the earlier revocation.

At the moment, if drivers do not disclose information about a previous revocation or refusal of a licence, there is often no way for a 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 their licence revoked elsewhere. High profile instances of this happening have undermined public confidence in the safety of hackney carriages and PHVs, and left licensing authorities open to criticism for something that is currently very difficult for them to control.

In response to this issue, the Local Government Association (LGA) has commissioned the development of a national register of hackney carriage and PHV driver licence refusals and revocations, the 'National Register of Refusals and Revocations' or NR3. The new register will allow licensing authorities to record details of where a hackney carriage or PHV drivers' licence has been refused or revoked, and allow licensing authorities to check new applicants against the register. This should help to prevent people found to be not fit and proper in one area from securing a licence somewhere else through deception and non-disclosure. For the avoidance of doubt, NR3 does not extend to vehicle or operator licensing decisions.

This guidance note provides information on the steps that licensing authorities should take to ensure that they have the necessary supporting procedures in place to make use of the register. Specific user guidance and training materials on using the register will be published separately.

### **Important**

**Licensing authorities will be data controllers in relation to their processing of personal data in connection with NR3, including in relation to uploading information to NR3, consulting NR3, and disclosing or receiving information about individuals who appear on NR3. Licensing authorities are therefore strongly advised to work closely with their information governance and legal teams to assure themselves that they are taking the necessary steps to comply with data protection and other laws in regard to NR3.**

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<sup>1</sup> Throughout this document, this term includes dual or combined Hackney / PHV licences.

## 2. Objective of NR3

The simple objective of the national register is to ensure that authorities are able to take properly informed decisions on whether an applicant is fit and proper, in the knowledge that another authority has previously reached a negative view on the same applicant. This will be achieved by providing a mechanism for licensing authorities to be able to check whether an individual has had a licence refused or revoked. Whenever a licensing authority processes a new application for a hackney carriage/PHV driver's licence, or for a renewal, it should check the register at a suitably early stage of the process to confirm whether the applicant was subject to a previous licensing decision that they should be aware of.

Every application must always be considered on its own merits. A licensing authority must not fetter its decision-making, or appear to have simply relied upon the previous decision of another authority. The purpose of the register is not to mean that an applicant who has been refused a licence on one occasion will always be refused.

However, it will always be relevant for an authority to consider a previous refusal or revocation, and the reasons for that decision. That previous decision may in many cases warrant significant weight to be given to it. Licensing authorities will wish to think carefully about taking a different view to an earlier decision. Depending on the nature and context of the earlier decision, they may require strong and new evidence to support a different view, having regard to the representations of the applicant. Any authority will wish to have proper respect for the decision of a previous authority, having regard to the fact that a driver had the right of appeal to the Magistrates' Court against a decision which was wrong or flawed. Without this approach, the objectives of safeguarding and consistency – and the reputation of local government – will be undermined.

The register will not record suspensions of drivers' licences. This is for the following reasons:

- i. any suspension that was later lifted because the original information was false or unsubstantiated would have to be removed from the register, but any search during the period that the information remained in the register might prejudice a subsequent application
- ii. suspension should not be used as an interim step pending revocation. If the matter is serious enough to warrant a driver being prevented from driving, revocation should be the action taken<sup>2</sup>; and
- iii. where a suspension period is imposed as a short-term punishment for minor transgression, this should not influence a subsequent decision, as further serious non-compliance should lead to revocation<sup>3</sup>. Accordingly any pattern of unacceptable behaviour should be identified by revocations or refusals to renew, rather than by a recurring pattern of suspensions.

For these reasons, no records of suspension should be included, including migration of historic records relating to suspension.

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<sup>2</sup> See *R (on the application of Singh) v Cardiff City Council (Admin)*, [2013] LLR 108 and *Reigate & Banstead Borough Council v Pawlowski* [2018] R.T.R. 10

<sup>3</sup> Suspension as a punishment is permissible – see *R (on the application of Singh) v Cardiff City Council* [2013] LLR 108



### 3. Voluntary disclosure of previous licensing history

NR3 provides a mechanism for sharing information about an individual's previous licensing history if they have had a licence revoked or an application for one refused. Most licensing authorities already ask applicants to indicate on their application forms whether they have previously had a licence revoked or refused. With the introduction of NR3, authorities should ensure that the request for this information is clearly set out on the application form and accompanying guidance notes. Where an applicant fails to volunteer information that has been clearly requested but which is subsequently identified through NR3, this may in itself raise questions about the applicant's integrity and status as a fit and proper person.

### 4. NR3 - an overview

#### 4.1. Accessing the register

The national register is hosted by the National Anti-Fraud Network (NAFN). Access to the register is only available to members of NAFN. Licensing authorities are encouraged to join up to NAFN and recover the cost of this through their taxi licence fees. NAFN can be contacted by email on [general@nafn.gov.uk](mailto:general@nafn.gov.uk).

NAFN members will need to sign up specifically to the NR3 element of the NAFN database, which will allow access to the dedicated portal. This is a relatively straightforward process and can be done by contacting NAFN.

A relevant officer will need to be designated as a single point of contact (SPOC) as part of the registration process. Authorities which already use the NAFN system will already have an existing SPOC in place (or potentially multiple SPOCs for different areas of functionality), so consideration will need to be given to the interaction between existing NAFN contacts and the new NR3 functionality.

Once set up on the register, other officers will be able to create user accounts which will allow them to submit data or search the register, but these accounts will need to be verified/ approved by the SPOC. Consideration should be given to the number of officers that need to be set up with user accounts to enable them to use the register to search / input information.

Subscribing to the national register will require local authorities to sign up to data sharing and data processing agreements with NAFN. These agreements outline the necessary steps the authority will need to take to ensure compliance and will cover requirements under both the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA).

#### 4.2. Register functionality

The register has two basic elements of functionality; it enables authorities to record details of relevant drivers, and it enables them to undertake searches of the data held in the register.

Licensing authorities will be responsible for adding basic details of drivers who have had a licence revoked or an application for one refused. The intention is that when a licensing authority receives an application for a licence or a renewal, the applicant's details will be checked on the register to confirm that there is no record of them having being revoked or refused elsewhere.

Details contained on the register will be limited to information that will help to identify an individual to a certain degree of accuracy, but will not give a reason or explanation of why an action was taken. It will be up to individual authorities to follow up on any searches which come back with a match with the appropriate licensing authority, whose contact details will be included in the search result.

Details will be kept on the register for a period of 25 years, and local authorities will therefore need to ensure that their own information governance policies reflect this. The register has been developed to support public safety through the potential sharing of information that is relevant to consideration of whether an individual is a fit and proper person to hold a taxi licence. There will be instances where the basis for an individual's licence being revoked or refused is sufficiently serious as to remain relevant to a future taxi licence application however far in advance it is submitted; for example, where it concerns an issue of sexual misconduct in relation to a passenger. The data retention period for the register has therefore been set to reflect the potential gravity of some revocations and refusals, and the need for this information to be shared. However, as set out later in this document and in the supporting policy at Annex D, any information to be shared between authorities outside of the register must be shared on a proportionate and time limited basis, in accordance with the authority's policy for doing so. If an authority did not take a case specific approach but chose to share all data over the full retention period, this would be likely to be disproportionate and therefore unlawful.

Authorities will need to ensure that their information governance policies are updated to make reference to the NR3 retention period, the associated retention period for supporting taxi licence data, and the rationale for it.

### 4.3. Historic data migration

The first step once subscription to the register has been completed is to populate the register with historic data of licence revocations and refusals. To do this, licensing authorities will need to submit historic data via CSV file to NAFN. NAFN have provided a standard template to use to submit data.

The majority of licensing authorities will use an electronic licensing system, and therefore will be able to obtain extracts from their licensing systems which can then be cut and pasted into the spreadsheet. However, if authorities use a manual system to issue licenses, they will need to manually fill out the spreadsheet.

In order to comply with data protection law, there must be a point beyond which historic data will not be uploaded. It is difficult to determine what that should be. However as the retention period for data on the register is 25 years, this appears to an appropriate period. Accordingly no historic data more than 25 years old should be uploaded to the register. It is important to note here that the 25-year data retention period begins at the point at which a licence was refused or revoked, rather than the date when the data was uploaded to the register.

Crucially, it is vital to ensure that any historic data which is uploaded by a licensing authority has not been retained in contravention of that authority's own retention policy. It is accepted that this may lead to differing ages of historic data being uploaded, but that is unavoidable to ensure compliance with data protection law.

Before any historic data is uploaded, the authority must write to those individuals who the data concerns stating that the data will be uploaded at a future date, which should be a

period of not less than 28 days. Individuals should be informed about the purposes of the data processing, the legal basis for it, and their various rights to object in regard to this.

Although the letters do not specifically need to invite representations about the proposal, any representations that are made in that period should be considered by the authority and data should only be uploaded where the authority feels that it is fair and appropriate to do so. This will not prevent historic data being uploaded, but will ensure that where data is held which may be uploaded, there is an opportunity for the authority to reconsider whether that is the correct action to take. A template letter for contacting former licence holders is attached at Annex C.

Once historic data has been submitted, any new revocations or refusals will need to be entered onto the NAFN register portal by a licensing officer as and when decisions are taken.

## **5. Updating licensing processes and procedures**

Using the register will necessitate some key changes to the way applications and renewals are processed and information recorded.

### **5.1. Informing applicants of the NR3 register**

Applicants must be informed of the existence of the NR3 register and that it will be consulted in connection with their application (and subsequent applications to renew licences).

They must also be informed that their personal data will be placed on the register if at any time their licence is revoked or renewal is refused.

Licensing authorities in receipt of applications must ensure that applicants are given the contact details of the data protection officer for the licensing authority, contact details for NAFN, and are advised of the fact that the information can be retained for up to 25 years (which is the retention period) and the fact they have a right to lodge a complaint with the Information Commissioner, together with the contact details for the Information Commissioner. It is suggested that this information is included in the privacy information provided to individuals when they apply for a licence. This is discussed further in 6.1.

### **5.2. Adding details of a refusal or revocation**

When an application for a licence is refused, or an existing licence is revoked, authorities will need to enter this information onto NR3. It will be important to ensure that authorities only enter refusals that have genuinely been considered and refused; NR3 is not intended to capture details of incomplete applications which an authority does not process. The key point is that a decision has been taken because there is evidence that an individual is not a fit and proper person to hold a licence.

Entering this information will be a simple and quick step, as only a limited amount of information will be added to the register: the individual's details; the date of the decision; the date it takes effect; and the decision taken – but not the reason for the decision.

Several authorities have reported that individuals who have had a licence revoked have previously moved very quickly to try to gain a licence elsewhere. It will therefore be important that authorities are prompt in adding the details of refusals or revocations to the register, so

that the information is available in the event that an individual does seek to secure a licence from another authority.

Authorities should ensure that they include the entries onto NR3 in their authority wide records of their data processing activities.

### 5.3. Checking the register as part of the application and renewal process

The second process change will relate to applications for hackney carriage/ PHV driver licences. Licensing authorities will also wish to check the register when they undertake licence renewals; firstly to confirm any historic information that may have been added in respect of one of their licensees, but also because it is possible that some drivers may hold more than one licence, and could therefore have one revoked in another area.<sup>4</sup>

This in itself is a two-stage process: stage one is the checking of the register; stage two is making a request to the authority that uploaded the information to the register for details of the revocation or refusal.

Once signed up to the register, licensing authorities will need to ensure that they check the details of new applicants on the register, to identify whether they have a previous licensing history (which may or may not have been disclosed on an application). Individual authorities will need to determine the appropriate point in their application process at which to check the register; however, it is suggested that this is done at a very early stage so that the authority can process the application with the knowledge of any previous history, if the applicant has one.

Guidance on using the register will set out the search parameters that authorities can use. It has been recognised throughout the process that individuals may use different names or provide different details to different authorities - perhaps in an attempt to avoid association with any previous issues – and searches should therefore take this into account.

If a search of the register does not indicate that an applicant has any previous history the authority should be aware of, then the authority should continue to process the application as normal. A negative search result will not, of course, mean that the applicant is a fit and proper person; that will be for the authority to assess in the usual way.

If a search does indicate a possible match on the register, then the authority will need to move on to stage two and seek further information. The register will indicate which authority has entered a possible match, and provide contact details for that authority.

It is suggested that an authority seeking information from another authority about an entry on the register should make a request in writing for the information on which the decision recorded in the register was based (a suggested form is included at the end of Annex D). Authorities are encouraged to respond to such requests as soon as possible, and ideally within 10 working days of receiving a request.

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<sup>4</sup> The growth of app-based models and sub-contracting changes introduced by the Deregulation Act have both facilitated increased 'out of area' working, and may therefore make it less likely that in the future, under the existing framework, a driver would hold more than one licence.

The sharing between licensing authorities of this more detailed data - which may often involve the processing of special category personal data<sup>5</sup> - is not included within the data processing and data sharing agreements governing use of the register itself. Any authority which shares information in response to a request, and any authority which receives information having made a request, must have in place a clear and published policy which governs its approach to the circumstances in which it will share, receive and use information of this type. It must be recognised that information will not be shared following every request. The authority that receives the request must consider whether it is actually proportionate to share this information, and ensure that disclosures are not arbitrary. This must also be detailed in their policy document. Having such a policy is a requirement of data protection law, Article 8 of the European Convention on Human Rights and of public law.

If such a policy is in place which properly differentiates between circumstances, both authorities will be entitled to rely on processing conditions under Article 6(1)(e) and, in cases of special category data, Articles 9 and 10 GDPR<sup>6</sup>. Licensing authorities will need to satisfy themselves that they have followed the appropriate processes in sharing this more detailed data.

The authority that receives the request must consider what information, if any, to reveal to the requesting authority. This is not intended to undermine the effects of the register: it is essential to ensure that disclosures are compatible with the Data Protection Act, the General Data Protection Regulations, and the Human Rights Act. In making its decision the authority must consider the nature and seriousness of the conduct which led to the revocation or refusal to renew, and the time that has elapsed since the decision was made.

This will require not only a clear published policy, but also a decision-maker who has sufficient training and knowledge of the requirements to enable him/her to make an informed decision regarding disclosure.

It is suggested that where the time that has elapsed since the revocation or failure to renew exceeds the time limits relating to the particular conduct that are contained in the Institute of Licensing's "Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades"<sup>7</sup>, serious consideration should be given as to whether or not the information should be revealed.

A suggested template policy is attached at Annex D.

To ensure compliance with article 30 of the GDPR, the authority must maintain a clear written record of every disclosure made following a search of the register. This should be a separate document, and it is not sufficient to simply mark an existing register of licences.

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<sup>5</sup> Special category personal data is sensitive data that could reveal someone's racial or ethnic origin, political opinions, religious beliefs, trade union membership, and data concerning health or sex life.

<sup>6</sup> Found in Parts 1, 2 and 3 of the DPA 2018.

<sup>7</sup>

[https://cplresourcestorage.blob.core.windows.net/documents/226798\\_Guidance%20on%20Suitability%20ONLINE%20PDF%20\(2\).pdf?sv=2013-08-15&sr=b&sig=sLMffzDNvtMihhMQ2xu1vOIUEQbD1n05TTY%2BrDTv9UM%3D&st=2018-07-17T14%3A28%3A32Z&se=2018-07-17T14%3A34%3A32Z&sp=r](https://cplresourcestorage.blob.core.windows.net/documents/226798_Guidance%20on%20Suitability%20ONLINE%20PDF%20(2).pdf?sv=2013-08-15&sr=b&sig=sLMffzDNvtMihhMQ2xu1vOIUEQbD1n05TTY%2BrDTv9UM%3D&st=2018-07-17T14%3A28%3A32Z&se=2018-07-17T14%3A34%3A32Z&sp=r)

The document must include the fact that disclosure was made, but not specify the contents of that disclosure.

#### 5.4. Acting on detailed disclosures

The licensing authority that receives a disclosure under stage two must then act upon it. As detailed above, the information may warrant significant weight being attached to it, but it is vital authorities do not use evidence of a previous refusal or revocation as the sole basis for their current decision.

To ensure compliance with article 30 of the GDPR, the authority must maintain a clear written record of the action that is taken following the receipt of information from the register. This should be a separate document, and it is not sufficient to simply mark an existing register of licences.

### 6. Complying with data protection requirements

Licensing authorities will need to ensure that any individuals whose data is uploaded or entered onto NR3 is made aware of this: it is a legal requirement that data subjects must be made aware of the collection, storage and use of their personal data via a privacy notice.

In relation to NR3, the following details must be included in a privacy notice:

- The name and contact details of the licensing authority.
- The contact details of the authority's data protection officer.
- The purpose of the processing.
- The lawful basis for the processing.
- The recipients or categories of recipients of the personal data.
- The retention periods for the personal data.
- The rights available to individuals in respect of the processing.
- The right to lodge a complaint with a supervisory authority.

For current licensees or applicants, authorities should ensure that information about NR3 is included in:

- licensing policies
- application forms
- correspondence to named individuals that confirms that a licence has been revoked, or that an application for a licence has been refused.

These should fulfil the requirements for privacy notices, and suggested wording is provided in Annexes A and B.

Authorities will also need to ensure that they inform individuals in respect of whom a historic decision has been entered onto the register. Again, this correspondence should fulfil the legal requirements for privacy notices, and the LGA has developed a template letter that licensing authorities may wish to use for this purpose (Annex C).

Individuals whose details are contained on the register may submit a 'subject access request' (SAR) seeking copies of their details from the register at any point. **Full details of the process, mechanism and suggested point of contact for submitting a SAR must therefore be included within each local authority's policy, and also contained within application forms and supporting documentation when a licence is issued.** Should a SAR be received by an individual licensing authority, it should be dealt with as per the relevant authority's process. Licensing authorities, as the data controller, will need to liaise with NAFN, as the data processor, to fulfil SARs.

Licensing authorities will need to ensure that anyone whose details are included on NR3 is aware of their rights in relation to their data. In addition to the right to being informed, under the Data Protection Act, data subjects may have other rights in relation to the processing of their data. Various of these rights will apply in relation to the NR3, including: the right to object, the right to request access to data; the right to rectification or erasure of data, and the right to restrict processing of data.

It is important to note that although data subjects have the right to make these requests, the licensing authority does not have to agree to them. The fact that NR3 has been deemed necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller makes it very unlikely that an authority would agree to these rights, other than the rights to access individual data on the NR3 and the rectification of data where an error has been made. However, authorities will need to respond to these requests within thirty days, setting out their decision.

### 6.1. Updating the licensing policy, application forms and guidance

Licensing authorities will therefore need to update their hackney carriage / PHV licensing policies to reflect the use of the register and the new processes arising from it, including that relevant information on the register will in future be part of the process for assessing licence applications and whether an individual is a fit and proper person.

Authorities will similarly need to update their application forms and related paperwork (such as guidance notes) to make it clear that:

- all applicants will have their details checked against the register, and any relevant information taken into account in assessing the application
- where an application is refused, or where a licence is granted but subsequently revoked, this information will be entered into the register.

These statements should provide assurance that this information will be processed in accordance with the DPA and GDPR. Suggested forms of words are included at Annex A.

Where an authority decides to refuse or revoke a hackney carriage / PHV licence (the first authority), the decision notice should refer to the authority's earlier notification in guidance and on application forms that the decision will be entered onto NR3. It should also make clear that if the individual makes an application to another licensing authority (the second authority) for a drivers' licence at a later date, the second authority will check the register, and the details of the refusal or revocation may be provided to them by the first authority, in line with their policy for disclosing information.

## 6.2. Making existing licensees aware

As well as new applicants, you will also need to make existing licensees aware of the fact that the authority has signed up to the register, and that if their licence is subsequently revoked or not renewed, this will be recorded. A suggested form of words is included at Annex B.



## Annex A – guidance on amendments to policies and forms

Authorities will need to update their application forms and related paperwork (such as guidance notes) to make it clear that:

- all applicants will have their details checked against the register, and any relevant information taken into account in assessing the application
- where an application is refused, or where a licence is granted but subsequently revoked, this information will be entered into the register.

The statements included in forms and guidance should provide assurance that this information will be processed in accordance with the DPA and GDPR. Critically, it should also make clear that there is a lawful basis for processing the data, which is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Where an authority decides to refuse or revoke a hackney carriage / PHV licence, the decision notice should refer to the authority's earlier notification in guidance and on application forms that the decision will now be entered onto the national register.

### **I. Suggested form of additional wording for licensing policy document and application paperwork**

The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence

Therefore:

- Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken

- date of decision
- date decision effective

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of [applying for] [being granted], a hackney carriage / PHV driver licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it. You can read that policy at [link / set out separately].

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

## II. Suggested form of additional wording for decision letter concerning refusal of an application

In accordance with [insert appropriate reference to policy document or application paperwork explaining membership and implications of NR3], the decision to refuse your application will be entered onto the National Register of Taxi Licence Refusals and Revocations (NR3). The information entered onto NR3 will be limited to you:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken (but not the reason for it)
- date of decision
- the date the decision took effect.

This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence in future, but is intended simply to ensure that licensing authorities

are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we may provide our reasons for the refusal of this application, in accordance with our policy at [details/link].

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office.

### **III. Suggested form of additional wording for decision letter concerning revocation**

In accordance with [insert appropriate reference to policy document / application paperwork / letter to existing licence holders explaining membership and implications of NR3], the decision to revoke your licence will be entered onto the National Register of Refusals and Revocations (NR3). The information entered onto NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken (but not the reason for it)
- date of decision
- the date the decision took effect.

This information will be processed and shared in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR), and is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Recording this information on NR3 does not mean that you will be automatically prevented from securing a licence, but is intended simply to ensure that licensing authorities are able to access your full licensing history should you make further licence applications elsewhere. Information will be held on the register for 25 years. If during that time another authority requests further details relating to this decision because you have applied to it for a licence, we will provide our reasons for the revocation of this licence in accordance with our policy at [details/link].

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and

the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office.

## Annex B – suggested notification to existing licensees of NR3

To all hackney carriage / PHV / dual [combined] licence holders

Dear licensee

National Register of Taxi Licence Refusals and Revocations

I am writing to make you aware of a new initiative which X authority is involved in to help strengthen hackney carriage/ Private Hire Vehicle (PHV) licensing for the benefit of both passengers and responsible hackney carriage and PHV drivers.

As you may be aware, the Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Taxi Licence Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN). The intention of this is to prevent drivers who have had a hackney carriage or PHV licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in the hackney carriage and PHV trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or PHV licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the taxi trade, safety groups and charities, the Department for Transport and by licensing authorities.

From [insert date], this authority will begin using the NR3. This means that from that point:

- Applications for new hackney carriage/PHV licences and for renewals will be checked on the NR3.
- Where an existing licence is revoked or an application for renewal or a new licence is refused, this will be recorded on NR3.

This authority, and other licensing authorities, will also be adding historic information on refusals and revocations of licences to the register. Historic data will not go back beyond the retention period of 25 years. Any relevant data entered onto NR3 which relates to existing licence holders may be considered as part of future renewal processes.

The information recorded on NR3 will be limited to your:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- the date of the decision
- the date decision was effective

Information will be retained on NR3 for 25 years.

Where an applicant's details are flagged on NR3 during a search, this will be followed up separately between the authorities. Any such request in relation to your record will be responded to in accordance with the authority's published policy at [details/link]. Licensing authorities will still be required to consider each application on its own merits, but the introduction of NR3 will help ensure that they are able to do so on the basis of all the information that is relevant to an application.

All data processing and sharing undertaken by this authority on the NR3, and with individual authorities in regard to entries on the NR3 will be undertaken in accordance with the Data Protection Act (DPA) and the General Data Protection Regulations (GDPR). The legal basis for processing this information is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details].

You always have the right to make a complaint to the Information Commissioner's Office.

Yours sincerely

Licensing authority

## **Frequently asked questions**

### ***Why has the register been set up?***

NR3 has been developed to improve public safety and confidence in hackney carriage and PHV licensing. There have been numerous high profile cases where drivers who have been refused licences or had a licence revoked in one area have gone to another area and received a licence in that area by failing to disclose their previous history. This undermines public safety, if there are legitimate reasons why a licence was refused or revoked, and damages confidence in the hackney carriage / PHV licensing regime and trade. This is why the initiative has been widely supported by reputable drivers and firms, as it will provide a mechanism for ensuring information about refusals and revocations can be shared between all licensing authorities in a safe and secure way, removing this potential loophole.

### ***How will the register work – what information will be recorded?***

When an authority revokes a licence, or refuses an application for one, it will record this information on NR3. The information recorded will be limited to:

- name
- date of birth
- address and contact details
- national insurance number

- driving licence number
- decision taken
- date of decision
- date decision effective

Licensing authorities will then search the register when they are processing new applications or renewals. Where an authority finds a match for their applicant on NR3, it will contact the licensing authority that recorded the entry to seek more information, which, if shared, will then be used to help reach a decision on the application.

***Will I automatically be refused a licence if I am on the register?***

No. Licensing authorities are legally required to consider each licence application on its own merits, and cannot refuse an application simply because an applicant may be recorded on NR3. The purpose of NR3 is to ensure that authorities have the full information necessary to help them reach a decision on whether an individual is fit and proper. If circumstances have materially changed since the decision that has been recorded on NR3, it may be appropriate for another authority to award a licence.

***What if my licence is suspended?***

Suspensions of licences will not be recorded on NR3. This is because suspension should be used as either a short-term punishment or to overcome a short-term situation (e.g. driving or medical issues). Where a driver is no longer considered to be a fit and proper person to hold a licence, the licence should be revoked.

***Can I find out if my details are on the NR3?***

Individuals whose details are added to NR3 will be notified of this at the point at which they are advised of the decision to refuse or revoke a licence.

Outside of these times, an individual can make a subject access request (SAR) for any of their personal data held on NR3. The 'data controller' in respect of this data is this licensing authority, to whom a SAR should be submitted in the first instance. As the 'data processor', that is the organisation storing the data, the National Anti-Fraud Network will fulfil this request. Similarly, the exercise of any other rights provided under data protection legislation should be made to this authority in the first instance.

***How long will details be held on NR3 for?***

Data will be retained on the register to help licensing authorities fulfil their statutory duty to be satisfied that a person is a fit and proper person to hold a taxi or PHV licence. These duties are set out under sections 51, 59 and 61 of the Local Government (Miscellaneous Provisions) Act 1976; sections 13, 16 and 17 of the Private Hire Vehicles (London) Act 1998; section 3 of the Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003; sections 25 and 30 of the London Cab Order 1934; sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. In accordance with this purpose, data will remain on NR3 for 25 years.

## Annex C - suggested notification to former licence holders or applicants whose details will be entered onto NR3

Dear XXX

National Register of Refusals and Revocations

I am writing to make you aware of a new initiative which X authority is involved in to help strengthen hackney carriage / Private Hire Vehicle (PHV) licensing for the benefit of both passengers and responsible hackney carriage and PHV drivers.

The Local Government Association (LGA), the representative body for local councils, has commissioned a new National Register of Refusals and Revocations (NR3). The register will be hosted by the National Anti-Fraud Network (NAFN). The intention of this is to prevent drivers who have had a hackney carriage or PHV licence revoked or an application for one refused, going to another authority to dishonestly secure a licence by failing to disclose their previous licensing history.

Instances of drivers doing this in the past have undermined public confidence in both the hackney carriage and PHV trade and licensing authorities. The purpose of the NR3 initiative is therefore to provide a mechanism for licensing authorities to share details of individuals who have had a taxi or PHV licence revoked or an application for one refused. The development of NR3 has been welcomed by all sections of the hackney carriage and PHV trade, safety groups and charities, the Department for Transport and by licensing authorities.

From [insert date], this authority will begin using the NR3. This means that from that point:

- applications for new hackney carriage/PHV licences and for renewals will be checked on the NR3
- where an existing licence is revoked, or an application for renewal or a new licence is refused, this will be recorded on NR3.

This authority, and other licensing authorities, will also be adding historic information on refusals and revocations of licences to the register. Historic data will not go back beyond the retention period of [25 years / the authority's own data retention period]. As part of this process, it is intended that the details of your previous [licence revocation / refusal] will be added to the register in 28 days' time.

The information recorded on NR3 in respect of your case is limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective.



Information will be retained on NR3 for 25 years.

Where an applicant's details are flagged on NR3 during a search, this will be followed up separately between the authorities. Any such request in relation to your record will be responded to in accordance with the authority's published policy at [details/link].

Licensing authorities will still be required to consider each application on its own merits, but the introduction of NR3 will help ensure that they are able to do so on the basis of all the information that is relevant to an application.

All data processing and sharing undertaken by this authority on the NR3, and with individual authorities in regard to entries on the NR3 will be undertaken in accordance with the Data Protection Act (DPA) and the General Data Protection Regulations (GDPR). The legal basis for processing this information is that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

You have various rights in relation to your data: the right to request access to your data; the right to rectification or erasure of your data; the right to restrict processing of your data, and the right to object to the processing of your data for this purpose. The authority will consider any such requests and respond within one month.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [contact details]. This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office.

Yours sincerely

Licensing authority

## **Frequently asked questions**

### ***Why has the register been set up?***

NR3 has been developed to improve public safety and confidence in taxi and PHV licensing. There have been numerous high profile cases where drivers who have been refused licences or had a licence revoked in one area have gone to another area and received a licence in another area by failing to disclose their previous history. This undermines public safety, if there are legitimate reasons why a licence was refused or revoked, and damages confidence in the hackney carriage / PHV licensing regime and trade. This is why the initiative has been widely supported by reputable drivers and firms, as it will provide a mechanism for ensuring information about refusals and revocations can be shared between all licensing authorities in a safe and secure way, removing this potential loophole.

### ***How will the register work – what information will be recorded?***

When an authority revokes a licence, or refuses an application for one, it will record this information on NR3. The information recorded will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective.

Licensing authorities will then search the register when they are processing new applications or renewals. Where an authority finds a match for their applicant on NR3, it will contact the licensing authority that recorded the entry to seek more information, which, if shared, will then be used to help reach a decision on the application.

***Will I automatically be refused a licence if I am on the register?***

No. Licensing authorities are legally required to consider each licence application on its own merits, and cannot refuse an application simply because an applicant may be recorded on NR3. The purpose of NR3 is to ensure that authorities have the full information necessary to help them reach a decision on whether an individual is fit and proper. If circumstances have materially changed since the decision that has been recorded on NR3, it may be appropriate for another authority to award a licence.

***Can I find out if my details are on the NR3?***

Individuals whose details are added to NR3 will be notified of this at the point at which they are advised of the decision to refuse or revoke a licence.

Outside of these times, an individual can make a subject access request (SAR) for any of their personal data held on NR3. The 'data controller' in respect of this data is this licensing authority, to whom a SAR should be submitted in the first instance. As the 'data processor', that is the organization storing the data, the National Anti-Fraud Network will fulfil this request. Similarly, the exercise of any other rights provided under data protection legislation should be made to this authority in writing in the first instance.

***How long will details be held on NR3 for?***

Data will be retained on the register to help licensing authorities fulfil their statutory duty to be satisfied that a person is a fit and proper person to hold a taxi or PHV licence. These duties are set out under sections 51, 59 and 61 of the Local Government (Miscellaneous Provisions) Act 1976; sections 13, 16 and 17 of the Private Hire Vehicles (London) Act 1998; section 3 of the Private Hire Vehicles (London PHV Driver's Licences) Regulations 2003; sections 25 and 30 of the London Cab Order 1934; sections 9 and 19 of the Plymouth City Council Act 1975 and section 46 of the Town Police Clauses Act 1847. In accordance with this purpose, data will remain on NR3 for 25 years.

## Annex D – Suggested template policy relating to requests for information, disclosure of information, and use of information as a result of an entry on NR3

Once an authority has signed up to the NR3, it is able to search the register when an application is received for a new drivers licence, or to renew an existing drivers licence. In this annex, the searching authority is referred to as ‘the second authority.’

If a match is found, then a request can be made to the authority that entered the information onto the NR3 (in this annex, this authority is referred to as ‘the first authority’) asking for more details of the revocation or refusal of a drivers’ licence by the first authority.

The first authority can then provide information to the second authority, enabling the second authority to take the earlier action into account and make an informed decision as to whether or not the licence should be granted or renewed.

To comply with the Data Protection Act, the General Data Protection Regulations, and the Human Rights Act, it is essential that the first authority which provides information about entries on the NR3 register, and the second authority that requests and receives such information, have a clear policy detailing how and when such information will be requested, provided, and how any information provided can then be used.

This is a suggested policy to address those situations. As each authority that signs up to the NR3 may at some point be both the first authority and the second authority for the purposes of this policy, the policy is drafted as a chronological progression through the process an authority may work through as either the first or second authority.

### Policy for **Council/TfL** in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3

In this policy, the ‘first authority’ refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the ‘second authority’ refers to a licensing authority which is seeking more detailed information about the entry.

#### **I. Overarching principles**

This policy covers the use that this authority **Council/TfL** will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of, a taxi drivers’ licence<sup>8</sup>. This information is important in the context of a subsequent application to another authority for a drivers’ licence by a person who has had their licence refused or revoked in the past.

This authority **Council/TfL** has signed up to the NR3. This means that when an application for a taxi drivers’ licence is refused, or when an existing taxi drivers’ licence is revoked, that information will be placed upon the register.

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<sup>8</sup> Throughout this policy reference is made to ‘taxi drivers licence.’ This generic term covers a hackney carriage drivers licence, a private hire drivers licence and a combined/dual licence.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, this authority [Council/TfL] will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application<sup>9</sup>.

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated<sup>10</sup>. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case stated is made, the data will be retained until all court proceedings relating to that appeal by way of case stated (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined<sup>11</sup>.

The data will be held securely in accordance with this authority's [Council/TfL] general policy on the secure retention of personal data [which is available at...]. At the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's [Council/TfL] general policy on the erasure and destruction of personal data (which is available at....).

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<sup>9</sup> The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However, to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

<sup>10</sup> Any appeal by way of case stated must be lodged within 21 days of the decision of either the magistrates court or the Crown Court (see The Criminal Procedure Rules R35.2). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

<sup>11</sup> Decisions of the local authority, magistrates' Court and Crown Court are also susceptible to judicial review. Generally any right of appeal should be exercised in preference to judicial review, but there are occasions when leave has been granted for judicial review in the circumstances. Any application for judicial review must be made "promptly; and in any event not later than 3 months after the grounds to make the claim 1st arose" (see The Civil Procedure Rules R54.5). If an application for judicial review is made after any relevant data has been destroyed, this authority will request the information again and then retain that information until all court proceedings relating to that judicial review (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

## II. Making a request for further information regarding an entry on NR3<sup>12</sup>

When an application is made to this authority [Council/TfL] for the grant of a new, or renewal of, a taxi driver's licence, this authority [Council/TfL] will check the NR3.

This authority [Council/TfL] will make and then retain a clear written record<sup>13</sup> of every search that is made of the register. This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- the results of the search; and
- the use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If this authority [Council/TfL] discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of this authority's [Council/TfL] data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at appendix 1 of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

## III. Responding to a request made for further information regarding an entry on NR3<sup>14</sup>

When this authority [Council/TfL] receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years<sup>15</sup>.

This authority [Council/TfL] will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

This authority [Council/TfL] will conduct a Data Protection Impact Assessment. This will consider how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of that period. It is expected that

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<sup>12</sup> This section of the template policy relates to the submission of a request by the second authority.

<sup>13</sup> This can be electronic, rather than "pen and paper" hard copy.

<sup>14</sup> This section of the template policy relates to the handling by the first authority of a request for information by the second authority.

<sup>15</sup> This record can be combined with the written record of the action taken as a result of the request.

if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If this authority [Council/TfL] is satisfied that the other authority's (the 2<sup>nd</sup> authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed<sup>16</sup>. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but this authority [Council/TfL] (the 1<sup>st</sup> authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

This authority [Council/TfL] will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within the Institute of Licensing's "*Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades*"<sup>17</sup> [or own policy if this differs]. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction (or similar as defined in the IoL guidance) which is outside the timescales determined in those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Any information about convictions will be shared in accordance with this policy under part 2 of scheduled 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

The officer will record what action was taken and why. This authority [Council/TfL] will make and then retain a clear written record<sup>18</sup> of every decision that is made as a result of a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- how and when the decision (and any information) was communicated to the requesting authority.

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<sup>16</sup> If the 1<sup>st</sup> authority is not satisfied that the 2<sup>nd</sup> authority's data protection policy is satisfactory, no disclosure can be made. In such circumstances it is essential that discussion takes place as a matter of urgency between the data protection officers of the 1<sup>st</sup> authority and the 2<sup>nd</sup> authority.

<sup>17</sup> Available at

<https://www.instituteoflicensing.org/NewsJobsArticle.aspx?NewsID=11318&NewsOrJob=news>

<sup>18</sup> This can be electronic, rather than "pen and paper" hard copy.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

#### IV. Using any information obtained as a result of a request to another authority

When this authority [Council/TfL] receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications [insert reference to the [Council/TfL]'s policy for determining applications].

This authority [Council/TfL] will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority [Council/TfL] will make in relation to the application.

### Appendix 1 - information disclosure form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3).

*(For completion by requestor authority)*

Name of licensing authority requesting information: .....

Requestor authority reference number: .....

Name of licensing authority from which information is sought: .....

Name of individual in respect of whom the request is made: .....

Decision in respect of which the request is made: Refusal / revocation

Other details for this record: .....

Address: .....

Driving licence #: .....

NI #: .....

Reference number: .....

Declaration by requesting authority:

*The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi / PHV licences are fit and*

*proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.*

*The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and PHV licences, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.*

*To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request is attached to this document/can be accessed at ??.*

Signed:  
Name: .....  
Position: .....  
Date.....

*(For completion by providing authority)*

Further information to support the decision recorded on NR3 in respect of the above named individual

Declaration by providing authority

*The authority hereby confirms that it has conducted a data protection impact assessment.*

*It also confirms that the information above is accurate, and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above named authority accordingly.*

*The authority also confirms that, as part of the basis for securing, retaining or applying for a taxi / PHV licence, the above named individual has been made aware of to the fact that this information will be shared, in accordance with all relevant data and privacy requirements*

Signed:  
Name: .....  
Position: .....  
Date: .....





HACKNEY CARRIAGE and PRIVATE HIRE  
LICENSING POLICY and GUIDANCE

*Runnymede Borough Council Bylaws  
Town Police Clauses Act 1847  
Local Government (Miscellaneous Provisions) Act 1976 & Other Legislation*

Valid from 2 March 2017 until 2 March 2020

Version 3 with effect 26 September 2018

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## PART 4

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### 3. GENERAL ADMINISTRATIVE ISSUES

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#### 4.1. APPLICATIONS & NOTICES

#### 4.2. Equality of opportunity

4.3. Subject to the requirements of the relevant statutory provisions, nothing in this taxi licensing policy shall override or undermine the right of any individual or business –

(a) to apply for one or more of the authorisations and/or exemptions provided for and, where appropriate, to have that application considered on its individual merits;

(b) who is aggrieved by the decision of the licensing authority to appeal against that decision to the Courts where provision has been made for them to do so.

#### 4.4. SUBMISSION OF APPLICATIONS AND NOTICES

4.5. All applications and notices must be made to the licensing authority detailed below –

The Licensing Authority  
Runnymede Borough Council  
Runnymede Civic Centre  
Station Road  
Addlestone  
Surrey  
**Email:** [licensing@runnymede.gov.uk](mailto:licensing@runnymede.gov.uk)  
KT15 2AH  
**Telephone:** 01932 838383  
**Website:** [www.runnymede.gov.uk](http://www.runnymede.gov.uk)

#### 4.6. Validity of applications or notices

4.7. The licensing authority will, normally, only accept and, where appropriate, process applications and notices that fully comply with all relevant requirements and eligibility criteria. Applications and/or notices will normally be treated as being invalid where they fail to comply with all relevant requirements.

4.8. The licensing authority will normally refuse an application where the applicant fails to supply required information without reasonable cause or otherwise within any reasonable timescale we may specify.

#### 4.9. Safeguarding against fraud

4.10. So that it can satisfy itself against forgeries and the potential for fraud, the licensing authority will normally require all submissions to be original documents. Photocopies, scans and similar will **not** normally be accepted.

4.11. We will treat any document as being invalid where we suspect it may have been forged, improperly altered or tampered with. Any Documents which are produced and have been forged / altered or tampered with in any other way with intent to deceive

Council staff will result in the application being refused and no further applications being accepted from that individual.

- 4.12. Where appropriate, and for the reasons given above, individuals who have changed their name for any reason at any time must also provide supporting documents giving effect to their change of name (e.g. marriage certificate, deed poll, divorce papers etc.).

#### **4.13. Renewal and lapse of existing licences**

- 4.14. To assist licence holders, the licensing authority will endeavour to remind licence holders of the pending expiry of any licence they hold. However, it asserts that it remains the responsibility of each licence holder to re-apply for all appropriate licences, other necessary documentation and/or permissions etc. in advance of expiry. The fact that no reminder letter for any documentation has been received is not a reason to excuse late submissions.

- 4.15. Licence holders who allow their licence to expire will be unlicensed and therefore not authorised to act or otherwise provide the activities for which the licence was originally required. For this reason, applications for renewal which are made after the date of expiry of any (pre)existing licence will normally be treated as being invalid/void and, where appropriate, individuals will normally be required to make a new application in full as though applying for the first time. It is therefore in each licence holder's interest to ensure that any application for renewal is made in full and in good time. To be treated as a valid application for renewal, (where required) it must be the case that the applicants DBS, certified medical certificate and DVLA check meets the licensing authority's requirements.

- 4.16. In the event of any driver allowing their licence to expire and within one month of the expiry date submits a new application, the authority will not require that the driver resits a knowledge test. Likewise they will not have to supply a new medical/DBS/DVLA mandate providing the existing documents meet the Councils requirements. The expiry dates of these existing documents will remain as they would, had the licence not expired.

#### **4.17. Disclaimer**

- 4.18. The licensing authority accepts no liability for rejection, loss or delays incurred due to late submission, the submission of documents of questionable validity or the submission of an incomplete application.

#### **4.19. USE & EXCHANGE OF INFORMATION**

##### **4.20. Data protection and exchange of information**

- 4.21. The licensing authority will comply with the General Data Protection Regulations. In supplying data you consent to the Council processing the data for the purpose it is supplied. All personal information provided will be treated in the strictest confidence and will only be used by the Council or disclosed to others for a purpose permitted by law. Data is deleted in accordance with our data retention policy. Our privacy policy is published on our web site [www.runnymede.gov.uk](http://www.runnymede.gov.uk)

- 4.22. The licensing authority may disclose all such information to its agents, service providers and other RBC departments.
- 4.23. Individuals on whom we hold information have the right to ask for a copy of the information in order to correct any inaccuracies. We may charge a fee for this work.
- 4.24. By submitting an application or notice all individuals consent to the licensing authority using and processing sensitive and / or personal data about them where this is necessary.

#### **4.25. Confidential information**

- 4.26. The licensing authority recognises that it is subject to legal restrictions on confidentiality of certain information it requires and holds in order to determine applications for, and/or to supervise, the various licences it issues (e.g. medical data, criminal conviction and similar background disclosures).
- 4.27. In exercise of its duties, the licensing authority will only disclose such information, as may be necessary, to those involved in the determination of relevant applications in accordance with the RBC's Constitution and Scheme of Delegation (see paragraph 4.37). The licensing authority will not divulge such information to any third party otherwise than where it is required to do so by law.

#### **4.28. Storage and use of confidential information**

- 4.29. Confidential information will be reviewed in accordance with RBC's document retention and disposal policy. It will not be retained any longer than necessary:-
- (a) beyond the term and duration of the licence for which it was required; or
  - (b) where appropriate, until it is replaced by more up-to-date information.

#### **4.30. Change of details, name or address**

- 4.31. To allow communications and ensure that authorisations remain valid, licence holders must inform the licensing authority within 7 days of any change of name, address or contact details. Where appropriate the licensing authority may check any change of details and require suitable proof of identity and evidence of the change(s) made.
- 4.32. As the licensing authority may have urgent cause to contact licence holders in circumstances and situations that may affect public safety or protection (e.g. vehicle safety recalls, missing person enquiries etc.), the licensing authority will take a serious view of any individual who fails to advise it of any relevant change in details.

#### **4.33. PUBLIC REGISTER & PROVISION OF INFORMATION**

##### **4.34. Public registers**

- 4.35. The licensing authority maintains a public register of the authorisations that it issues, together with other information.
- 4.36. The public register is available on RBC's website

<https://www.runnymede.gov.uk/article/4458/Search?q=public+register&go=Go>

#### **4.37 NATIONAL REGISTER OF TAXI LICENCE REFUSALS AND REVOCATIONS NR3**

- 4.38 The licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), and will follow the guidance on this register issued by the Local Government Association (LGA) and National Anti-Fraud Network (NAFN).
- 4.39 This register is a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence
- 4.40 Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on the NR3 register.
- 4.41 All applications for a new licence or licence renewal will automatically be checked on NR3 register. This is a mandatory part of applying for a hackney carriage or PHV licence. If a search of NR3 register indicates a match with an applicant, the authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 register search will only be used in respect of the specific licence application and will not be retained beyond the determination of that application.

The information recorded on NR3 register itself will be limited to:

- name
- date of birth
- address and contact detail
  
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective

Information will be retained on NR3 register for a period of 25 years.

- 4.42 Should a request be made to or from Runnymede for additional information from another authority we will comply with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR) and the Human Rights Act. Any decision on the release or receipt of further information will take into account the nature and seriousness of the conduct which led to the revocation or refusal to renew a licence as well as the time that has elapsed since the decision was made. Each request will be treated on its own merits.
- 4.43 Any searches, provision or receipt of information of or under NR3 register will be carried out by licensing officers or licensing administration staff. This is a necessary process in the the authority's statutory licensing functions of ensuring that all drivers

are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

4.44 If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer. This includes submitting a subject access request.

4.45 You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

#### **4.46. DELEGATION OF FUNCTIONS**

4.47. In the interests of speed and efficiency the licensing authority will, where possible, delegate licensing decisions and functions to officers.

4.48. Where the issue to be decided is in any way controversial then it may be referred to and decided by the Regulatory Committee. Within these general constraints, functions, responsibilities and access to confidential information will be delegated in accordance with the RBC's scheme of delegation.

#### **4.49. CONDITIONS**

4.50. Conditions include any terms, limitations or restrictions attached to a relevant authorisation and are essentially the steps a licence holder will be required to take or refrain from taking whenever acting in the capacity of a licenced driver, operator and/or when using or otherwise providing a licenced vehicle.

#### **4.51. General principles on the imposition of conditions**

4.52. The licensing authority will, where it is entitled to do so, normally impose conditions only in respect of matters that are within the control of the applicant and/or the holders of relevant authorisations.

4.53. The licensing authority will seek to avoid disproportionate and/or over burdensome conditions wherever reasonably practicable and will, where it is entitled to do so, normally seek to ensure that conditions –

- (a) are only imposed where legal authority exists to do so;
- (b) are reasonable;
- (c) are proportionate to any risks/problems identified;
- (d) directly relate to any harms being addressed;
- (e) are consistent in the circumstances;
- (f) are capable of being complied with by the relevant licence holder; and
- (g) do not unjustifiably duplicate the requirements of other legislation.

4.54. Where a non-standard condition is to be added to a relevant authorisation, the licensing authority will, where it is entitled to do so, normally seek to –

- (a) consider whether alternative means are available to address the risks/problems identified; and
- (b) give reasons for imposing the conditions/restrictions where appropriate.

4.55. The licensing authority will, where entitled to do so, normally impose conditions that are clear, unambiguous, coherent and enforceable.

#### **4.56. Avoidance of conflicting conditions**

4.57. So far as is reasonably practicable, the licensing authority will ensure, where it is entitled to do so, that no conditions are imposed on relevant authorisations that conflict with any other conditions

#### **4.58. Duplication with other statutory provisions**

4.59. The licensing authority expects holders of relevant authorisations, their premises and business activities to comply with all other relevant legislative requirements (e.g. Health and Safety at Work etc. Act 1974). The licensing authority will therefore, normally avoid the imposition of conditions that duplicate other regulatory requirements, unless -

- (a) other legislation does not adequately or specifically address the issues concerned; or
- (b) other legislation does not cover the unique circumstances that arise in connection with the particular activities and/or specific premises concerned; or
- (c) it is appropriate in the circumstances to take steps to promote the licensing objectives.

#### **4.60. Enforcement of conditions and rights of appeal**

4.61. Failure to comply with any condition attached to a relevant authorisation can be both a criminal offence and/or provide reasonable cause to suspend, revoke or refuse to renew relevant licences. As such, all parties will be informed of any statutory rights of appeal against the imposition of conditions, where provision has been made to do so.



**8. EXCLUSION OF PRESS AND PUBLIC**

If Members are minded to consider any of the foregoing items in private, it is the

**OFFICERS' RECOMMENDATION that -**

**the press and public be excluded from the meeting during discussion of the report(s) under Section 100A(4) of the Local Government Act 1972 on the grounds that the report(s) in question would be likely to involve disclosure of exempt information of the description specified in the relevant paragraphs of Part 1 of Schedule 12A of the Act.**

**(To Resolve)**

**PART II**

**Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

a) Exempt Information

(No reports to be considered under this heading)

b) Confidential Information

(No reports to be considered under this heading)