



## Licensing Committee

Members are invited to a **Meeting of the Licensing Committee** to be held in the Conference Room, Riverside, Lowestoft on **Monday, 16 October 2023 at 6.30pm**

This meeting will be broadcast to the public via the East Suffolk YouTube Channel at <https://youtube.com/live/cjREJr9g9GM?feature=share>

### Members:

Councillor Tim Wilson (Chair), Councillor Keith Patience (Vice-Chair), Councillor Jan Candy, Councillor Janet Craig, Councillor Deborah Dean, Councillor John Fisher, Councillor Alan Green, Councillor Colin Hedgley, Councillor Mark Jepson, Councillor Vince Langdon-Morris, Councillor Sarah Plummer, Councillor Lee Reeves, Councillor Keith Robinson, Councillor Rachel Smith-Lyte, Councillor Ed Thompson.

An Agenda is set out below.


<b>Part One – Open to the Public</b>		<b>Pages</b>
<b>1</b>	<b>Apologies for Absence and Substitutions</b>	
<b>2</b>	<b>Declarations of Interest</b> Members and Officers are invited to make any declarations of interests, and the nature of that interest, that they may have in relation to items on the Agenda and are also reminded to make any declarations at any stage during the Meeting if it becomes apparent that this may be required when a particular item or issue is considered.	
<b>3</b>	<b>Minutes</b> To confirm as a correct record the minutes of the meeting held on 17 July 2023.	<b>1 - 3</b>
<b>4</b>	<b>Scrutiny review of the Hackney Carriage and Private Hire licensing regime ES/1697</b> Report of the Chair of the Scrutiny Committee.	<b>4 - 17</b>
<b>5</b>	<b>Reporting recommendations of Scrutiny Committee ES/1698</b> Report of the Cabinet Member with responsibility for Community Health.	<b>18 - 241</b>
<b>6</b>	<b>Street trading in East Suffolk ES/1699</b> Report of the Cabinet Member with responsibility for Community Health.	<b>242 - 253</b>

<b>Part One – Open to the Public</b>		<b>Pages</b>
<b>7</b>	<b>Scheduled review of the Council’s Statement of Licensing Policy ES/1700</b> Report of the Cabinet Member with responsibility for Community Health.	<b>254 - 295</b>
<b>8</b>	<b>Issued licences in East Suffolk and an overview of the work of the Licensing Sub-Committees - July to September 2023 ES/1701</b> Report of the Cabinet Member with responsibility for Community Health.	<b>296 - 306</b>

**Part Two – Exempt/Confidential** **Pages**

**There are no Exempt or Confidential items for this Agenda.**

**Close**



Chris Bally, Chief Executive

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<b>Unconfirmed</b>
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Minutes of a Meeting of the **Licensing Committee** held in the Deben Conference Room, East Suffolk House, on **Monday, 17 July 2023 at 6:30 PM**

**Members of the Committee present:**

Councillor Jan Candy, Councillor Janet Craig, Councillor Deborah Dean, Councillor John Fisher, Councillor Alan Green, Councillor Colin Hedgley, Councillor Mark Jepson, Councillor Keith Patience, Councillor Sarah Plummer, Councillor Lee Reeves, Councillor Ed Thompson, Councillor Tim Wilson

**Other Members present:**

Councillor Andree Gee, Councillor Mike Ninnmey

**Officers present:**

Teresa Bailey (Senior Licensing Officer), Martin Clarke (Licensing Manager and Housing Lead Lawyer), Matt Makin (Democratic Services Officer (Regulatory)) Alli Stone (Democratic Services Officer (Governance))

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**1 Apologies for Absence and Substitutions**

Apologies were received from Councillor Robinson, Councillor Gee attended as substitute.

**2 Declarations of Interest**

There were no Declarations of Interest.

**3 Minutes**

On the proposal of Councillor Hedgley, seconded by Councillor Gee it was

**RESOLVED**

That the Minutes of the Meeting held on 17 April 2023 be agreed as a correct record and signed by the Chair.

**4 Scheduled Review of the Council's Statement of Licensing Policy**

The Committee received report **ES-1605** of Councillor Ninnmey, Cabinet Member with Responsibility for Community Health. Councillor Ninnmey introduced the report which presented the Draft Statement of Licensing Policy. The Committee was required to review the policy every five years. Following review by the Committee there would be a public consultation and then approved by Full Council.

The Senior Licensing Officer summarised the purpose of the policy. The policy set out how the authority managed applications for premises licences. In the case of licences where no objections were received, these were granted as applied for. When an objection was received, the policy set out the process that should be followed to manage the application from this point. The policy was based on the four licensing objectives which were the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. The Policy also set out the Council's basis for making a decision should any decision be challenged in court.

The only substantive change in the policy was the inclusion of point 24, which dealt with the ancillary delivery of alcohol and/or late night refreshments. This service was becoming more widely available following Covid-19 and so this had been included in the policy to ensure this area was covered.

Following a question from Councillor Patience on licences for selling alcohol from a vehicle, officers confirmed that the sale of alcohol was not permitted from a moving vehicle. Companies that set up temporary bars from converted vehicles at various events had to apply for a licence for each event, or use the premises licence at that particular site if there was one in place. Officers also confirmed that riverboats were permitted to sell alcohol which would be covered by a premises licence.

Councillor Jepson asked what guidance had been issued on proof of age for home deliveries. The Licensing Manager and Housing Lead Lawyer confirmed that whatever policy was used on a premises should also be used for home deliveries offered by that premises, and that most premises had a Challenge 25 policy in place. Councillor Reeves asked how this applied to third party delivery apps and officers confirmed that any third party service also had to follow the policies from the premises they were delivering for. If a premises used a service that did not follow this policy then the premises licence could be revoked. The third party would be dealt with through other channels.

On the proposal of Councillor Hedgley, seconded by Councillor Plummer, it was

## **RESOLVED**

That having considered the proposed amendments to the draft revised edition of the Statement of Licensing Policy, it be approved.

## **5 Issued Licences in East Suffolk and an overview of the work of the Licensing Sub-Committees April – June 2023**

The Committee received report **ES-1605** of Councillor Ninnmey, Cabinet Member with Responsibility for Community Health. Councillor Ninnmey introduced the report which summarised the premises that had applied for a new licence or had otherwise had their licence changed in the months from April to June 2023. Councillor Ninnmey noted that there had been a general increase in the number of licences since 2020, although there had also been a reduction in the number of Hackney Carriage licences.

The Senior Licensing Officer stated that many Hackney Carriages had changed to private hire vehicles. There were several reasons for this including more flexibility over fares and charges and more secure work.

On the proposal of Councillor Jepson, seconded by Councillor Hedgley it was

**RESOLVED**

That the overview of some of the work of the Licensing Team and the Licensing Sub-committees during the second quarter of 2023 be noted.

The meeting concluded at 6.53pm

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Chair



**LICENSING COMMITTEE**  
**Monday, 16 October 2023**

<b>Subject</b>	Scrutiny review of the Hackney Carriage and Private Hire licensing regime
<b>Cabinet Member</b>	Councillor Jan Candy Cabinet Member with responsibility for Community Health
<b>Report Author(s)</b>	Councillor Mike Deacon Chair of Scrutiny Committee <a href="mailto:michael.deacon@eastsoffolk.gov.uk">michael.deacon@eastsoffolk.gov.uk</a>  Sarah Davis Democratic Services Officer <a href="mailto:Sarah.davis@eastsoffolk.gov.uk">Sarah.davis@eastsoffolk.gov.uk</a>
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<b>Director</b>	Kate Blakemore Strategic Director <a href="mailto:Kate.blakemore@eastsoffolk.gov.uk">Kate.blakemore@eastsoffolk.gov.uk</a>

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.	Not applicable
<b>Wards Affected:</b>	All Wards

## Purpose and high-level overview

### **Purpose of Report:**

One of the Scrutiny Committee's functions is to review Council services and, if necessary, make recommendations for improvement.

This report gives a summary of the Scrutiny Committee's findings following its review of the Hackney Carriage and Private Hire Licensing Regime at its meeting on 21 September 2023.

The Scrutiny Committee considered the report of Councillor Ninnmey, the then Cabinet Member with responsibility for Community Health, which included written submissions from a number of representatives from the trade, and is available on the Council's website. In addition, the Chair of the Licensing Committee, Councillor Wilson, and two guest speakers from the trade attended the meeting to address the Committee and answer questions.

A minute extract from the meeting held on 21 September 2023 forms Appendix A to this report.

### **Options:**

The Scrutiny Committee considered the contents of the Cabinet Member's report and heard evidence from the guest speakers, prior to formulating several recommendations: no other options were considered relevant.

### **Recommendation/s:**

1. That the Licensing Committee be recommended to approve an increase in the number of Enforcement Officers to ensure adequate provision across the whole district.
2. That the Licensing Committee consider the following matters raised during the Scrutiny Committee's review into the Hackney Carriage and Private Hire Licensing Regime:
  - Introducing ways to attract more drivers to the industry, including streamlining processes
  - Consider ways to alleviate the financial burden for drivers applying for a Licence which could include providing grants, loan pay back schemes or staggering payments etc
  - Review, and consider lobbying the Government and LGA in relation to, the recommendations contained within the Task and Finish Group report entitled the Taxi and Private Hire Vehicle Licensing: Steps towards a Safer and More Robust System.

## Corporate Impact Assessment

**Governance:**

This report has been prepared on behalf of the Scrutiny Committee. The Council is required by statute to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Scrutiny Committees can contribute to the development of Council policies and can also hold the Cabinet and other Committees of the Council to account for their decisions.

**ESC policies and strategies that directly apply to the proposal:**

The Council's Constitution – Licensing Committee Terms of Reference and the Licensing and Registration functions delegated to the Licensing Committee

**Environmental:**

Reviewing the Hackney Carriage and Private Hire Licensing Regime to see whether or not the trade could be incentivised further to increase the use of Electric Vehicles (EVs) would help the environment.

**Equalities and Diversity:**

Not applicable

**Financial:**

If the Licensing Committee agree to the recommendation to increase the number of Licensing Enforcement Officers this will have a financial implication.

**Human Resources:**

If the recommendation to employ another Licensing Enforcement Officer is agreed, this will increase the establishment.

**ICT:**

Not applicable

**Legal:**

Not applicable

**Risk:**

Not applicable

**External Consultees:**

Licensed Private Hire Car Association and Hackney Carriage and Private Hire Operators in East Suffolk



## Strategic Plan Priorities

Select the priorities of the <a href="#">Strategic Plan</a> which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
<b>T01</b>	<b>Growing our Economy</b>		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>T02</b>	<b>Enabling our Communities</b>		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
<b>T03</b>	<b>Maintaining Financial Sustainability</b>		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
<b>T04</b>	<b>Delivering Digital Transformation</b>		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T05</b>	<b>Caring for our Environment</b>		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
<b>XXX</b>	<b>Governance</b>		
XXX	How ESC governs itself as an authority	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><b>How does this proposal support the priorities selected?</b></p> <p>The Scrutiny Committee acts as a “critical friend” when reviewing services and makes recommendations for decision makers to consider.</p> <p>If agreed, the recommendations made as part of this review will support the Council’s priorities for example by improving the Council’s Licensing Regime in terms of enforcement across the district and processes.</p>			

## Background and Justification for Recommendation

1 Background facts	
1.1	The Scrutiny Committee decided to review the Hackney Carriage and Private Hire Licensing Regime to ensure the processes were robust, that Licence holders were dealt with fairly and that residents received the best service.
1.2	The Committee submitted key lines of enquiry to Councillor Ninnmey, the then Cabinet Member with responsibility for Community Health and his report containing his response was considered by the Scrutiny Committee at its meeting on 21 September 2023.
1.3	The Committee also heard from Councillor Wilson, the Chair of the Licensing Committee.
1.4	The Licensed Private Hire Car Association (LPHCA) and the Hackney Carriage and Private Hire Operators in East Suffolk were invited to submit written comments and address the Committee as part of the review.
1.5	Written submissions were received from two operators, Mr Stokell and Mr Bloom, and from Steve Wright MBE, the Chair of the LPHCA and these were appended to the Cabinet Member's report. In addition, Mr Wright MBE, and Ms Lock, a Director of 515151 Taxis from Lowestoft, addressed the Committee to give their perspectives and answer Members' questions.

2 Current position	
2.1	<p>The current position with regards to the Council's Hackney Carriage and Private Hire Licensing Regime was stated by the Cabinet Member and Officers within the formal report received by the Committee on 21 September 2023 and during discussions at the meeting.</p> <p>It is not proposed to restate that position here, in this report, and for the sake of efficiency, readers are referred to the Cabinet Member's report on the Council's website and the minute extract of the meeting in Appendix A for this information.</p>
2.2	<p>During the meeting, the trade representatives raised the following issues:</p> <ul style="list-style-type: none"> <li>• The time to get a licence and the cost of it was a barrier preventing some drivers from entering the trade or were a reason they left</li> <li>• There was too much training – it should be tailored eg drivers operating fixed routes to collect children to and from school etc did not require the same level of training as other drivers and why did non operational directors of a company have to undertake the same training as a driver?</li> <li>• The required college course was felt to be expensive and too long, covering some unnecessary elements</li> <li>• There was a lack of enforcement at street level</li> <li>• Many drivers had left the industry due to Covid</li> <li>• The introduction of the DFT's statutory standards during Covid had impacted greatly on drivers and local authorities</li> <li>• There was a blurring of the lines between the two tiers of taxi and private hire licences in East Suffolk, for example fare pricing</li> <li>• Was it necessary to require drivers with long clean licences to undertake driving test assessments?</li> </ul>

	<ul style="list-style-type: none"> <li>• Companies were turning down general/school work due to the lack of drivers</li> <li>• The cost of electric vehicles (EV) was very high and the charging costs had increased significantly and were not that much below petrol costs</li> <li>• The reduced fee for drivers with an EV was only 25%</li> <li>• There was a lack of EV infrastructure in the district and no incentives for businesses to add any</li> <li>• There was no framework for drivers/operators to complain about or report passenger abuse</li> <li>• The licence was not portable if a driver moved house – they had to re-apply</li> <li>• Uber and other app based companies had had a massive impact on the sector</li> <li>• National standards were advisable as drivers could drive across geographic boundaries in accordance with the Task and Finish Group’s recommendations</li> <li>• Improved engagement between the trade and the Council would be welcome</li> <li>• Processes could be simplified such as plate collection on renewal, documentation could be emailed instead of posted etc</li> </ul>
2.3	<p>The Cabinet Member, Councillor Wilson and Officers reported on the following at the meeting:</p> <ul style="list-style-type: none"> <li>• The reasons for requiring drivers to report the costs of journeys</li> <li>• The reasons for the process of collecting renewal plates</li> <li>• The Council did receive compliments about drivers as well as complaints</li> <li>• The hours drivers worked and if there was a health and safety risk</li> <li>• The number and type of complaints received about drivers or issues identified by the Licensing Enforcement Officer</li> <li>• Potential incentives to use EVs such as grants</li> <li>• Clarity on the number of licenced drivers in East Suffolk</li> <li>• Elements that came into determining that drivers and operators were “fit and proper persons”</li> <li>• The costs and duration of the course including clarity that new drivers had a longer course than existing drivers</li> <li>• The reasons safeguarding was an integral part of the training</li> <li>• That customer care standards were a minimum</li> <li>• The time taken for applications to be processed</li> <li>• That Uber would be treated the same as any other operator</li> </ul>

<b>3 How to address current situation</b>	
3.1	The Scrutiny Committee noted the current Hackney Carriage and Private Hire Licensing processes and the reasons for them.
3.2	One of the main issues that became apparent to the Committee during the review was the lack of enforcement. Although it was acknowledged that the current Licensing Enforcement Officer was very good, having only one Enforcement Officer seriously impeded the amount of enforcement that could take place given the size of the district. Members were concerned that there was a suggestion that some drivers were taking advantage of that gap in enforcement.
3.3	The Committee was also concerned to learn that the Licensing Regime in terms of some of the current policies, processes, procedures and costs might be deterring drivers from entering the industry or be a reason why drivers had left.

3.4	Members agreed with the trade that a review of the Licensing Regime would be helpful, particularly in relation to some of the specific issues raised including: <ul style="list-style-type: none"> <li>• the collection of renewal plates</li> <li>• the cost, duration and content of the 2 day training course</li> <li>• the need to reapply if moving house etc</li> <li>• ways to incentivise the trade to use more electric vehicles</li> </ul>
3.5	It was also felt that engagement between the trade and the Licensing Department should be improved and might be helpful towards finding solutions to some of these issues.
3.6	In reviewing this matter and in forming its recommendations, the Committee wished to offer a constructive friend's view of the current situation and challenge in a positive way that might also add value and assistance rather than criticism.

#### 4 Reason/s for recommendation

4.1	In response to the information provided during the review, it was clear to the Scrutiny Committee that Licensing Enforcement was an issue. It was felt that this could only be overcome by employing another Enforcement Officer to ensure the whole district was covered. This would also reassure the trade and public that the Council regarded any breaches of Licensing conditions very seriously.
4.2	It was also clear that there was a need to attract and retain drivers to provide a service to the public, particularly in the evenings, and to other stakeholders such as the County Council. The Scrutiny Committee felt, therefore, that the only way to do this was for the Licensing Committee, who is the responsible body, to review the Hackney Carriage and Private Hire Licensing Regime to hopefully meet the needs of the trade, whilst ensuring that the Council, as the Licensing Authority, met legislative requirements and accorded with best practice.
4.3	Reference had been made during the review to the recommendations in the Government's Task and Finish Group report entitled the Taxi and Private Hire Vehicle Licensing: Steps towards a Safer and More Robust System which it had been suggested might help mitigate some of the issues raised during the review. As the responsible body, the Scrutiny Committee felt it would be more appropriate for the Licensing Committee rather than themselves to review the recommendations and, if necessary, lobby Government and the LGA for action.

## Appendices

### Appendices:

**Appendix A** | Minute Extract from the Scrutiny Committee – 21 September 2023

### Background reference papers:

Date	Type	Available From
September 2018	Task and Finish Group: Taxi and Private Hire Licensing: Steps towards a Safer and More Robust System	<a href="https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-recommendations-for-a-safer-and-more-robust-system">https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-recommendations-for-a-safer-and-more-robust-system</a>

## MINUTE EXTRACT

### SCRUTINY COMMITTEE – 21 SEPTEMBER 2023

#### Item 4 - Review of Hackney Carriage and Private Hire Licences

The Chair thanked trade representatives who had responded to the consultation by submitting their comments in writing, a summary of which was appended to the report, and also thanked those who were watching on YouTube. In particular, he welcomed and thanked Steve Wright MBE and Stacey Lock who had agreed to address the Committee to give their views and respond to Members' questions.

The Cabinet Member for Community Health introduced his report ES/1642 which responded to the key lines of enquiry drawn up by the Scrutiny Committee. Councillor Ninnmey stressed that taxis and private hire drivers and operators were an invaluable part of East Suffolk's transport system in terms of the night time economy, driving children to school and the rurality of the district. He explained that Covid had seriously impacted the sector with many drivers leaving the trade and the cost of living crisis was a challenge, so fares needed to be set at a fair rate for the public but also provide drivers with a living. He stressed that public safety was of paramount importance and the Licensing Committee and Team had robust measures in place to protect the travelling public in terms of making sure vehicles were roadworthy and drivers were fit and proper persons. Appropriate enforcement action was taken in partnership with the Police and other stakeholders and the Team had a strong track record when defending the Council's decisions in Court in the event of challenge. The Committee and Team were also mindful that they had a role to play in achieving the Council's net zero ambitions and there were currently reduced fees for hybrid and electric vehicles.

The Chair invited Councillor Wilson, the Licensing Committee Chair to speak. Councillor Wilson stated that the Team covered a wide range of matters but hackney carriage and private hire licensing was the busiest element of their work. He stated that, where there was something that required a suspension of a licence, it went to him but if he was absent it was considered by the Cabinet Member. He explained that, in relation to the Department's direction of travel, he had spoken to Officers at length regarding the two different fare regimes and he referred to the 2019 survey of the trade which had shown there was no appetite to unify them. He stated that he had also discussed with Officers about good practice from elsewhere to encourage the trade to use electric or hybrid vehicles and the Team had concluded the best way to do that was by incentivising them with a discount on their licence fee.

In response to the Chair's request for the queries submitted by Mr Stokell in Appendix L of the report to be answered, the Licensing Manager and Housing Lead Lawyer stated that:

- Members determined policy conditions, not Officers.
- Although Officers prepared reports, policy decisions were a matter for the Licensing Committee to decide upon.

- Licensing Committee Members were given full training when they were appointed to the Committee and regular refresher training was provided as and when required. He was confident the Licensing Members knew the difference between hackney carriage and private hire licences.
- The current conditions in the policy were legal and could be amended by the Licensing Committee at any time but would not come into effect until renewal or on issue of a new licence.

The Chair queried why private hire drivers were expected to report income from a journey when there was no legal requirement to do so and how did Officers know that drivers were reporting how much they earned correctly. The Licensing Manager and Housing Lead Lawyer responded that the cost of the journey was required in the event of any dispute which could actually protect drivers and operators. The Senior Licensing Officer stressed that the Team were not enquiring about the income of the driver. It was clarified that private hire drivers could charge whatever they liked provided the passenger agreed to it in advance or if it was a fare that was agreed in advance, but if they decided to charge the metered rate they should not charge more than that.

Councillor Gooch referred to Mr Bloom's comments in the report in relation to being able to wait at railway stations, having to make appointments with the Team to collect renewals and having stickers encouraging comments/compliments. The Licensing Manager and Housing Lead Lawyer stated that if the Team did not know when drivers were collecting their renewal, they would not know who that person was. He also stressed that the Council could not have someone who was not a fit and proper person getting hold of a badge and licence. Whilst acknowledging that point, Councillor Gooch queried if the process could not be made simpler for renewals bearing in mind the Team would already have the ID and reference number of the driver. The Licensing Manager and Housing Lead Lawyer stated that office receptionists were not East Suffolk employees so could not be asked to check documents and issue licences. In relation to the stickers, he added that the current ones asked for feedback not complaints and he read out an example of a compliment the Council had recently received about a driver.

Councillor Candy queried why there was no law to govern the hours a driver could work but the conditions stated they must advise their operators when they were fatigued. The Licensing Manager and Housing Lead Lawyer stated that, whilst there were limits for HGV drivers etc, there was no legislation for how many hours taxis could work but if the Licensing Committee wished to bring in a policy then as long as it was "reasonable" they could do so but obviously if the trade were not happy with it then they could challenge it. Councillor Bennett pointed out that the hours drivers worked could be a matter of public safety. The Licensing Manager and Housing Lead Lawyer reminded Members that the test was that drivers had to be a fit and proper person so if there was an issue that brought that into question for example an operator was forcing the driver to work a lot of hours and the Team became aware of it then they would speak to the driver and the operator.

#### **Councillor Wilson left the meeting at 7pm.**

The Chair invited Steve Wright MBE, the Licensed Private Hire Car Association Chair to address the Committee. Mr Wright thanked the Committee for the opportunity to speak and, in response to an earlier comment, explained that about 18 years ago the Government had held a wide ranging consultation on hours, including the amount of dead time whilst drivers were waiting, and the conclusion was that the Working Time Directive Europe wide did not apply. He stated that this was unenforceable, however, these days software monitored hours and generally operators did not

allow their drivers to work excessive hours. In terms of the national picture, Mr Wright stated that there was a massive shortage of drivers because they did not get a lot of assistance during Covid and many had retired. One of the main barriers to people entering the industry was the high cost of the licence so people were choosing to deliver parcels etc instead. He suggested there were too many regulatory requirements on drivers that should be left to the companies such as customer care standards. He also felt there was a lot of training and excessive things now required of drivers so they did not want to come into the industry. He pointed out that a consequence of this over-regulation was the impact on public safety because people could not get picked up by a taxi or private hire vehicle at night. He added that there was a lack of genuine enforcement on the streets in the evenings. In relation to Uber and other app based companies, he stated that these were a nightmare for the industry because they made it almost impossible to pre-book journeys and drivers worked for multiple operators and cherry picked jobs. In relation to Covid, many drivers had left the industry and the barriers to entry were considerable. He added that he did not understand why the DfT brought out statutory standards during Covid because it was the worst possible time. Many drivers had said for example that they did not need a driving test when they had been driving for 40 years with a clean licence. The Government recommendations had been devolved to local authorities who were already struggling to keep their taxi and private hire industry working without having these statutory standards introduced. He explained that he had been part of the Government's Task and Finish Group that had looked at what needed to be done. With regard to the Council's relationship with the trade in comparison with other Local Authorities, he stated this was generally very good but suggested that there could be improvements eg there were two tiers in taxi and private hire and he felt there was a blurring of the tiers in East Suffolk, and there was a specific difficulty in driving those with special educational needs eg he queried the point in sending drivers on a 2 day course if they were doing a fixed route for special education needs and disabled children because there was a lot of expense involved in this. He explained there were different levels of training required and some were unnecessary eg teaching drivers how to use a meter if they would never use one. He suggested customer care standards were for the company to decide and was a desirable not essential. He stated that everything added to the cost which reduced the number of drivers and compromised public safety for example driving test assessments for those that had been driving for 40 years with no endorsements added to the cost and were another reason people did not join the industry. He concluded that he had no real criticisms of the Licensing Department and they had a good relationship.

The Chair invited questions and Councillor Candy asked if it would help to attract drivers if there was a cohesive trade group that they could belong to. Mr Wright stated apathy was the biggest enemy and given Uber was wiping out businesses, he felt any encouragement to join a trade union or trade body would help.

The Chair invited Stacey Lock from 515151 Taxis in Lowestoft to address the Committee. Ms Lock thanked the Committee for the invitation to speak and stated that she was doing so from an operator's point of view and also could report what drivers had to say. She explained there was a huge lack of enforcement with very little street level presence for example it was very rare to see any enforcement on school runs which led to drivers doing what they wanted. She stated that the lines were blurred between hackney carriage and private hires and clarified that, despite what the Officers had said earlier, hackney carriage fares were not a fixed price because they could be charged as the meter was set or below but could not go above the metered rate. Whereas private hires could charge what they liked as long as the customer agreed to it in advance or the customer was happy with the estimate. She explained that some hackney carriage drivers worked for private hire operators and carried out fares for the operators but did not charge the hackney carriage set fare. She stated that she had reported this several times but there was no enforcement so drivers

continued to do it. She added that some drivers would not drive for her because she did not allow it, whereas other operators did and this led to the public being ripped off for example if a driver picked up a fare that on a Council rate started at £4 but the operator's rate was £5 then the driver charged £5 and this happened daily. With regard to training, Ms Lock stated that her company was happy drivers and staff were educated but suggested the level gone to was madness eg she had worked in the business for 20 years and been a director for 7, but she still had to undertake the same training as a driver did. She felt she was more than qualified so queried why she needed to attend training especially when she had been asked to give feedback on it. She stated that there were three directors in her company and they all had to do training even though one did not have anything to do with the operational side of the business. She added that she had emailed Officers about this in August 2023 but had still not had a response so she did not know if she was abiding by the rules or not as the rules were unclear. Ms Lock explained that the two day college course was during the day which took them away from the job and was £150 on top of £600 for the licence and, in her view, a lot of the subjects on the course were self-explanatory with most drivers who had been doing it for a very long time being put off as they did not need to be told how to suck eggs. She recognised the need for training, especially the basics, but suggested the cost and time required was hugely deterring drivers with probably 15/20% of licensed drivers now choosing to do deliveries instead. She explained that her company had never turned down so much work before especially on Friday and Saturday nights but they did not have the drivers available and this left the public stranded with an hour to three hour wait. She suggested, therefore, that more needed to be done to attract drivers to join the trade including looking at the training and hoops they had to go through in order to get a licence otherwise the trade would not grow. She added that the average age of drivers was in their 50's and they did not want to work weekends any more but new drivers did not want to come into the trade. In relation to electric vehicles, Ms Lock stated that this was very difficult for businesses because the cost of the vehicles was extremely high and whilst the reduced fee was welcome, it was not that much money to compensate as it was only 25%. In addition, the area did not have the infrastructure needed and no support was available to businesses to add the infrastructure required. She explained there were only two charging points in Lowestoft and previously they had paid 35p per kilowatt on the road but now it was about 85p to £1 per kilowatt so the cost was probably now about the same as petrol. She concluded that there was no encouragement for the trade to go electric because it was too difficult and not cost effective to charge. There was no incentive to buy vehicles or licence them and they still had six monthly energy checks and paid the same costs even though the vehicles had no emissions.

The Chair invited questions for Mr Wright and Ms Lock. Councillor Gooch referred to Mr Bloom's comment that there was no framework for drivers and operators to make a complaint against abuse from members of the public and she queried if abuse was much of a disincentive for drivers. Ms Lock responded that she thought it was, adding that, although companies communicated with each other to stop certain customers from using vehicles, there was no system in place to report them other than to the Police. She gave an example from the previous week where a driver had been subjected to verbal abuse and the customer refused to pay the fare, the Police had been called but did not respond until three hours later and in the meantime the driver could not really hold them in the vehicle as that would have escalated the situation. Mr Wright commented that the number of customers who ran away without paying had increased dramatically with the Police at another Council's public meeting saying that it was not worth their time investigating as it would cost £250, so that and the shortage of drivers compounded the sector's problems.

The Chair invited questions and in response to Councillor Candy's question about what three things would encourage more drivers, Mr Wright stated that there were not really three things because



more importantly there were flaws with many of the systems such as DBS was not fit for purpose for example when taking a child to school at some point during the journey they became an adult! Another example was that there was no portability so if a driver moved house they had to reapply so everything was cumbersome and needed streamlining. Mr Wright stated that he was currently writing a report for the Government which he would send to Councils. He acknowledged that Council's costs were increasing but suggested they needed to look at what they were making drivers go through and drill down to the essential things for public safety only and remove other things such as training on providing change.

Councillor Bennett queried if Uber drivers had to go through the same training. Mr Wright stated that there were 300 licensing authorities in England and Wales and every one was different because there were no common standards. He explained that apps had negated geographical boundaries so someone could get a licence elsewhere, where it was cheaper and easier, then drive across boundaries which was why in his view national standards were needed.

In response to the Chair's query, Ms Lock clarified that she had meant the Licensing Team who carried out enforcement not the Police. She added there was a lot happening on the street level which she reported but if the Licensing Enforcement Officer did not know about it or see it then nothing happened. The Cabinet Member stated that he had been concerned to learn there was only one Enforcement Officer covering the whole district and, whilst the service had to be cost neutral, he suggested the Scrutiny Committee might wish to consider recommending the number of officers be increased. He added that the current Officer did work evenings.

In response to Councillor Folley's query about the number of complaints about drivers over the last year, the Licensing Manager and Housing Lead Lawyer responded that between 1 March 2022 and 28 February 2023, the Council dealt with 211 enforcement issues which were not necessarily complaints from the public but could be things that the Enforcement Officer had discovered such as smoking in vehicles, inappropriate behaviour, language, poor driving, not wearing a badge, dirty vehicle, query regarding a fare, unfit vehicle notices and not declaring speeding notices.

The Chair invited the guests to make any closing remarks and Ms Lock summed up that:

- It would be good to see more enforcement.
- The existing Licensing Enforcement Officer was very good and helpful.
- Drivers should be engaged with more and the trust between them and the Licensing Department should be built up.
- Collecting plates should be made easier eg so much documentation was provided that it should be possible to just show ID when collecting.
- Lots of documentation was sent by post that could be emailed.
- She was happy to engage further with the Council, Committee and Licensing Team.

Mr Wright stated that it would be good to get more engagement with the trade in future as they would come up with solutions. It was important to note that whatever regulations were put on to the trade they were done for safety reasons but if they were not thought through it could end up hindering safety therefore, he suggested more ongoing dialogue with the trade.

The Cabinet Member referred to the earlier comment that drivers shopped around between authorities and stated that having common standards would stop this as he had seen a case where a driver had been refused at Ipswich and applied here but was also refused. He acknowledged that Covid had meant that a lot of drivers had switched to deliveries and left the trade. He suggested

the Committee might be minded to recommend the introduction of grants to purchase electric vehicles as it had been shown elsewhere that this had resulted in the numbers increasing significantly.

In response to some of the comments made during the discussions, the Licensing Manager and Housing Lead Lawyer clarified that:

- There had been 589 licensed drivers before Covid and there were now 554, a drop of 35, however, there were currently 40 live applications so if these were all granted then there would be more drivers than before lockdown. **CLERK'S NOTE:** It was clarified after the meeting that there were now 63 live applications.
- When a vulnerable person got into a taxi they saw the badge and assumed the driver was a fit and proper person that could be trusted.
- People could pass a driving test at 17 without taking any other tests, so if drivers were not tested by the Council, the Council could not certify they drove to a good standard and this formed part of the fit and proper person test.
- Over the years, there had been several child exploitation cases elsewhere in the country involving drivers, so the purpose of the course was to ensure that did not happen at East Suffolk.
- New applicants had a 2 day course costing £160 whereas existing drivers took a half day course for £45 but this could be changed if the Licensing Committee felt it necessary.
- Customer standards were a floor not a ceiling and the Council wanted to make sure that operators operated to that minimum standard.
- Applications typically took 3-6 weeks.
- Uber drivers were no different to anyone else and if they applied to East Suffolk they would be held to exactly the same standards as any other private hire operator. It was not for the Licensing Authority to dictate the market as it was up to the customers to decide who they used but it was the Council's job to ensure that drivers and operators were fit and proper persons.
- It would be really helpful to have an additional Licensing Enforcement Officer as East Suffolk was a large district with currently only one Enforcement Officer.
- The Licensing Authority regulated drivers not passengers and there might be data protection issues for collecting abusive customer names, however, this was a policy issue for the Licensing Committee. Any assault or abuse by a passenger should be reported to the Police.
- The increase in conditions was mainly due to the standards introduced during the pandemic which was a matter for the Government and Members.

The Senior Licensing Officer clarified that the standards had been introduced in July 2020 and the Licensing Committee had approved most of the recommendations because the Government had said there needed to be a really good reason for not doing so, which was why the Council now had the conditions it had. She added that the Team had also attended the course and, whilst she acknowledged it could perhaps be shortened, it had been very good.

The Chair invited any last questions from the Committee. In response to questions from Councillors Gooch and Grey, Ms Lock acknowledged that her company had had to refuse a lot of work including County Council work. She added that workloads fluctuated but she estimated that her company needed another 20/30 drivers. She suggested that the Licensing Authority should help drivers get licences quicker and incentivise them to come back to the trade because work was available. Mr Wright pointed out that the demand would only increase as the population aged and more vulnerable people came out of care. He added that it was pointless putting drivers of those with

special needs through the same training if they were on a fixed route for example and doing so increased the costs to the County Councils which meant they provided less of a service.

Councillors Bennett and Noble asked what the most helpful thing this Council could do to attract more drivers to the industry, especially young ones and both Ms Lock and Mr Wright suggested the required training be reviewed as a lot of it was not relevant and two days was too much.

In response to queries from Councillor Gooch and Grey, the Licensing Manager and Housing Lead Lawyer stated that the course was designed by a safeguarding expert and was used by all the districts in Suffolk. The fee was charged by the course operator not the Council and if the Licensing Committee wished, they could choose to offer grants to help with the costs.

Following a query from the Chair, Ms Lock confirmed that her cabs did have a panic button and this would override the operating systems until cleared by the driver or the operator once they were satisfied the drivers was okay.

Councillor Ewart, Assistant Cabinet Member, stated that best practice should be followed but the Council could develop industry pride and perhaps champion electric vehicles to attract a new cohort of drivers. She added that it might be worthwhile teaching people how to drive because it was so expensive.

There being no further questions, the Chair opened up debate and the Committee suggested recommendations relating to streamlining processes, particularly the 2 day training course; investigating ways to alleviate the financial burden for applicants; and increasing enforcement capacity.

The Democratic Services Officer clarified that any recommendations would need to be made to the Licensing Committee rather than Cabinet.

On the proposition of Councillor Grey, seconded by Councillor Bennett, it was

## **RESOLVED**

That the Scrutiny Committee finalise the recommendations outside of the meeting via email.

**CLERK'S NOTE:** The Scrutiny Committee subsequently agreed the following resolution by email:

1. That the Licensing Committee be recommended to approve an increase in the number of Enforcement Officers to ensure adequate provision across the whole district.
2. That the Licensing Committee consider the following matters raised during the Scrutiny Committee's review into the Hackney Carriage and Private Hire Licence Regime:
  - Introducing ways to attract more drivers to the industry, including streamlining processes.
  - Consider ways to alleviate the financial burden for drivers applying for a Licence which could include providing grants, loan pay back schemes or staggering payments etc.
  - Review, and consider lobbying the Government and LGA in relation to, the recommendations contained within the Task and Finish Group report entitled the Taxi and Private Hire Vehicle Licensing: Steps towards a Safer and More Robust System.



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**LICENSING COMMITTEE**  
**Monday, 16 October 2023**

<b>Subject</b>	Reporting recommendations of Scrutiny Committee
<b>Cabinet Member</b>	Councillor Jan Candy Cabinet Member with responsibility for Community Health
<b>Report Author(s)</b>	Martin Clarke Licensing Manager and Housing Lead Lawyer <a href="mailto:martin.clarke@eastsoffolk.gov.uk">martin.clarke@eastsoffolk.gov.uk</a>
<b>Head of Service</b>	Chris Bing Head of Legal and Democratic Services <a href="mailto:chris.bing@eastsoffolk.gov.uk">chris.bing@eastsoffolk.gov.uk</a>
<b>Director</b>	Kate Blakemore Strategic Director <a href="mailto:kate.blakemore@eastsoffolk.gov.uk">kate.blakemore@eastsoffolk.gov.uk</a>

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.	Not Applicable
<b>Wards Affected:</b>	All Wards

## Purpose and high-level overview

**Purpose of Report:**

Licensing Committee is asked to review the recommendations of the Council's Scrutiny Committee following their review of the Hackney Carriage and Private Hire Vehicle Licences on 21 September 2023.

**Options:**

Licensing Committee is asked to consider the recommendations of the Council's Scrutiny Committee following their review of the Hackney Carriage and Private Hire Vehicle Licences and determine which recommendations they wish officers to explore further with a view to reporting back and implementing.

**Recommendation/s:**

Licensing Committee is asked to note and consider the recommendations of the Council's Scrutiny Committee following their review of the Hackney Carriage and Private Hire Vehicle Licences and determine which recommendations they wish officers to explore further with a view to reporting back and implementing.

## Corporate Impact Assessment

**Governance:**

Not Applicable

**ESC policies and strategies that directly apply to the proposal:**

Not Applicable

**Environmental:**

Not Applicable

**Equalities and Diversity:**

No impact

**Financial:**

Not Applicable.

**Human Resources:**

No impact

**ICT:**

No impact

<b>Legal:</b> Not Applicable
<b>Risk:</b> Not Applicable.

<b>External Consultees:</b>	Not Applicable
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## Strategic Plan Priorities

Select the priorities of the <a href="#">Strategic Plan</a> which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
<b>T01</b>	<b>Growing our Economy</b>		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>T02</b>	<b>Enabling our Communities</b>		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input checked="" type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
<b>T03</b>	<b>Maintaining Financial Sustainability</b>		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
<b>T04</b>	<b>Delivering Digital Transformation</b>		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T05</b>	<b>Caring for our Environment</b>		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
<b>XXX</b>	<b>Governance</b>		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>

### How does this proposal support the priorities selected?

Licensing plays an important role in the themes in the Council’s Strategic Plan of growing our economy and enabling our communities. Hackney carriage and private hire vehicles are a key part of the public transport system, enabling people without their own private transport or without easy access to other means of public transport to travel for education, employment, and entertainment, to shop and to attend medical appointments or deliver/receive care. Licensing Services is responsible for ensuring that those licensed to drive Private Hire Vehicles (PHV) and Hackney Carriages (HC) are ‘fit and proper’ namely that they are safe drivers with good driving records and adequate experience, mentally and physically fit, honest and not persons who would take advantage of their passengers. This report brings back to Licensing Committee recommendations of the Scrutiny Committee for consideration.

## Background and Justification for Recommendation

1 Background facts	
1.1	On 21 September 2023, Scrutiny Committee undertook a review of the Council’s Hackney Carriage and Private Hire Vehicle Licences.
1.2	At this meeting, the Scrutiny Committee made the following recommendations to Licensing Committee:  <ol style="list-style-type: none"><li>1. An additional Enforcement Officer be employed to ensure adequate enforcement across the whole district.</li><li>2. That the Licensing Committee consider the following matters raised during the Scrutiny Committee’s review into the Hackney Carriage and Private Hire Licence Regime:<ul style="list-style-type: none"><li>· Introduce ways to attract more drivers to the industry, including streamlining processes</li><li>· Consider ways to alleviate the financial burden for drivers applying for a Licence which could include providing grants, loan pay back schemes or staggering payments etc</li><li>· Review, and consider lobbying the Government and Local Government Association (LGA) in relation to, the recommendations contained within the Task and Finish Group report entitled the Taxi and Private Hire Vehicle Licensing: Steps towards a Safer and More Robust System.</li></ul></li></ol>

2 How to address current situation	
2.1	<b>That the Licensing Committee be recommended to approve an increase in the number of Enforcement Officers to ensure adequate provision across the whole district.</b>
	Officer response: Due to the geography of East Suffolk, with Lowestoft and Felixstowe, the 2 main centres of population and consequently licensable activities,

	being 50 miles apart, it is difficult for one Enforcement Officer to adequately cover the district. It would be of great assistance to the Licensing Team and would provide greater protection to the trade and public if an additional Enforcement Officer could be funded. Although the Enforcement Officers would be flexible, it is anticipated that one would cover the north of the District and one would cover the south of the District.
	An Enforcement Officer is a Band 5 Post. At the top of the banding, the cost to the Council would be £41,850. Licensing Services could not fund a new Enforcement Officer post within its current budget. Therefore, this money would need to be provided for either by the General Fund or through increased licensing fees. This would be a matter for members to determine.
2.2	<b>Introducing ways to attract more drivers to the industry, including streamlining processes</b>
	Officer response: The Council currently requires all the processes which are in place as the Licensing Committee has previously considered that all of the requirements are necessary to ensure that Licensed Drivers are 'Fit and Proper' persons.
	Private Hire and Hackney Carriage drivers are in a unique position of trust. They transport the public, including children and vulnerable adults. People are voluntarily getting into a motor vehicle with a stranger. Therefore, the Council must ensure that drivers are, and remain, 'fit and proper' to hold a licence. This requirement is contained within Sections 51 and 59 of The Local Government (Miscellaneous Provisions) Act 1976 (Part II). Would you allow your son, daughter, spouse, partner, mother, father, grandson or granddaughter, or any other person for whom you care, to get into a vehicle with this person alone? Would you trust this person to take you to the airport and be comfortable with them knowing that your home is going to be empty for a while? If the answer to any of these questions is no, then the person is not a fit and proper to hold a driver's licence.
	The Fit and Proper person test is the legal test for determining whether a person should be given a Licence. Under Part 2 of the Local Government (Miscellaneous Provisions) Act 1976, the local licensing authority cannot licence a driver unless satisfied that they are a fit and proper person. The fit and proper person test is a matter for the sub-committee to determine after a hearing. If a licence is granted that person must then remain fit and proper for the duration of that licence.
	A new applicant is required to attend an in-person appointment at one of the Council's offices with a Licensing Officer. There is an initial language proficiency test which involves elements of speaking, writing and reading the English language.
	There are various tools to assist the Council in ascertaining whether the person is a fit and proper person and a suitable driver in accordance with our policy: <ol style="list-style-type: none"> <li>1. We obtain an enhanced DBS check. This reveals whether the applicant has any convictions or cautions. Unlike for most other jobs, these are never spent. In addition, as the check is enhanced, the Chief Constable has discretion to add additional information and intelligence even if this does not relate to a conviction. The local licensing authority has a criminal records policy, and some offences will automatically bar a person from having a licence, the length of the bar can vary from 3 years following conviction to a lifetime bar. In all circumstances an applicant can require that their matter be put before the sub-committee.</li> </ol>



2. There is a medical test. The driver's doctor, who has access to their medical history, must certify that they are medically fit to be a driver. The medical standard expected is that of a Group 2 DVLA vehicle driver. Group 2 licence holders are permitted to drive large goods vehicles, buses, and coaches. The medical test needs to be retaken at 45 and every 5 years after until 65 when it becomes a yearly test. Licence conditions state that we must be informed of any changes to medical circumstances which may affect driving ability.
3. An applicant is required to undergo a driving test with our independent assessor.

A driving assessment must be completed to ensure the applicant is competent in vehicular control and is able to carry out manoeuvres smoothly and safely. Part of the assessment includes a knowledge test to demonstrate the applicant has adequate knowledge of the relevant legislation and the Council's licensing requirements.

A hackney carriage applicant will also be required to undertake a test which will involve having geographical knowledge and being able to state the shortest route between two points given by the examiner.

4. An applicant is required to undergo a 2-day college course relating to the role of a professional taxi and private hire driver and the syllabus includes:
  - Health and safety in the taxi and private hire work environment
  - Road safety when driving passengers in a taxi or private hire vehicle
  - Professional customer service in the taxi and private hire industry
  - Taxi and private hire vehicle maintenance and safety inspections
  - The regulatory framework of the taxi and private hire industry
  - Taxi and private hire services for passengers who require assistance
  - Routes and fares in the taxi and private hire vehicle industries
  - Transporting of parcels, luggage and other items in the taxi and private hire industries
  - Transporting of children and young persons by taxi or private hire vehicles (safeguarding, county lines and exploitation)
  - Disability awareness

The Council checks the National Register of Taxi and Private Hire Licence Revocations and Refusals database, also known as the NR3S database, this is a government mandated database where Local Authorities are required to input data about any driver whose licences they have revoked or suspended or refused to grant or refused to renew. This is to stop drivers going from one authority to another in search of getting a Licence.

It must be borne in mind that that the 2-day college course, is not just about the driver's conduct, it is there equip the drivers with the tools to spot Child Sexual Exploitation or County Lines Drug Networks both of which have involved the use of Taxi and Private Hire vehicles in other parts of the country. East Suffolk is not immune from the threat of Child Sexual Exploitation or County Lines Drug Networks and the Council needs to do all it can to minimise the risk of its licenced vehicles being used in these criminal enterprises.

	It was noted at Scrutiny that there may be scope to explore reducing the 2 day college course from 2 days to 1 day,
	It is a matter for the Licensing Committee to consider whether the process can be made more streamlined and if so, what steps can be removed or shortened. The Licensing Committee will need to consider whether or not the streamlining reduces the standards and safeguards in place, and if standards and safeguards are reduced by streamlining the process whether this is a proportionate action.
	Officers draw the Licensing Committees attention to the following documents: <ol style="list-style-type: none"> <li>1. Report of Inspection of Rotherham Borough Council dated February 2015 and in particular pages 103-117, this is attached as Appendix C</li> <li>2. Report of the Independent Inquiry into Telford Child Exploitation and in particular pages 588-633, this is attached as Appendix D</li> <li>3. Joint Operating Framework for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing in Oxfordshire developed as a direct result of the learning from the Bullfinch investigation into historical child sexual exploitation in Oxford, at Appendix E</li> </ol>
2.3	<b>Consider ways to alleviate the financial burden for drivers applying for a Licence which could include providing grants, loan pay back schemes or staggering payments etc</b>
	Officer response: Currently operators assist potential drivers with the cost by providing them with funding which is then repaid by the driver working for the operator. The operator takes the commercial risk that the driver may not repay the cost. It is a matter for elected members to determine whether the East Suffolk Council Taxpayer's should take on this risk.
	If members consider that East Suffolk Council Taxpayer's should take on this risk, then it is submitted that requirements would need to be imposed upon the applicants to ensure that they are intending to drive in the East Suffolk District as otherwise East Suffolk Council taxpayers would be subsidising them to drive in other districts.
	The administration of any scheme would involve expense, in particular checking eligibility and ensuring that any requirements were complied with. There would need to be a mechanism for recovery of loans, staggered payments or grants where conditions have not been complied with. This will involve additional officer time which will incur expense.
	Licensing Services could not fund this scheme within its current budget. Therefore, this money would need to be provided for either by the General Fund or through increased Licensing Fees. This would be a matter for Members to determine. We would need to consider whether such a scheme would be lawful, both in relation to the Council providing a financial benefit to applicants and also, if Members were minded funding such a scheme via increased licence fees, whether it would be lawful to recover the cost of the scheme from licence fee payers.
2.4	<b>Review, and consider lobbying the Government and LGA in relation to, the recommendations contained within the Task and Finish Group report entitled the Taxi and Private Hire Vehicle Licensing: Steps towards a Safer and More Robust System.</b>
	Officer response: The Task and Finish Group report was published on the 24 <sup>th</sup> September 2018, the Department for Transport's Statutory Taxi and Private Hire Standards were published on the 21 <sup>st</sup> July 2020 and last updated on the 25 <sup>th</sup> November 2022. It is submitted that lobbying the Government and Local Government Association regarding the recommendations in the 2018 report would

	not be a commensurate use of officer or Member time, as it is considered the Department for Transport would have considered the Task and Finish Group's Report when devising the new standards.
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### 3 Reason/s for recommendation

3.1	Licensing Committee is asked to consider Scrutiny Committee's recommendations for improving existing procedures and process in relation to hackney carriage and private hire licensing in East Suffolk.
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## Appendices

### Appendices:

<b>Appendix A</b>	Task and Finish Group Report dated 28 <sup>th</sup> September 2018
<b>Appendix B</b>	Statutory Taxi and Private Hire Vehicle Standards dated 25 <sup>th</sup> November 2022
<b>Appendix C</b>	Report of Inspection of Rotherham Borough Council dated February 2015, Introduction and pages 53-54 and pages 103-117
<b>Appendix D</b>	Pages 588-633 of report of the Independent Inquiry into Telford Child Exploitation
<b>Appendix E</b>	Joint Operating Framework for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing in Oxfordshire

### Background reference papers:

None

# Taxi and Private Hire Vehicle Licensing

## Steps towards a safer and more robust system

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# Acknowledgement

In preparing this study and throughout the work of the Task and Finish Group the expertise, endeavour and understanding of its members has been exceptional.

Whilst preparing and writing this report I have been supported throughout this process by the officials at the Department for Transport; without exaggeration I conclude that none of what has been achieved would have been possible without the support of these officials who personify all that is admired about the British Civil Service.

I would like to wholeheartedly thank all those who have shared with the Group their valuable knowledge and experience in the trade and its regulation, and their views on the way forward.



**Professor Mohammed Abdel-Haq**

Chairman, the Task and Finish Group on Taxi and Private Hire Vehicle Licensing

# Foreword

This report is about public wellbeing. Its genesis and mission were framed by the vision of the then Minister of State at the Department of Transport, the Rt. Hon. John Hayes CBE MP. In commissioning me to lead this vital work, he made clear that in his view the current regulatory regime for the taxi and private hire vehicle (PHV) sector is no longer fit for purpose.

In scoping the work together we were determined, above all, to chart a future which ensured public safety for all, a working environment for those in the trade which guaranteed fair working conditions and whilst maintaining a competitive, dynamic market, preserve the character, integrity and aesthetics of this time-honoured trade.

It is clear that the status quo whereby taxi and PHV licensing is inconsistent, ineffective and incompatible with the protection of vulnerable people must not be allowed to continue. Alongside other incidents of criminality, the events in Rotherham, Rochdale, Oxford and elsewhere have brought the fundamental flaws in the licensing regime into the sharpest possible focus; these oblige uncompromising determination to make taxis and PHVs safe for all.

Our efforts should also be informed by the Prime Minister's determination that the economy must work for all, and that those who, despite their hard work and skill, are 'just about managing' to provide for their families, must not become victims of the 'sweated economy' by those who accept little or no regard to the notion of social responsibility.

I have drawn on the insight of those who know best, and worked with a first-class group of colleagues. It is their sharp minds, commitment, professionalism and cool heads that have enabled the critical thinking and discussions that underpin my recommendations. Members of the Group have strongly held, sometimes polar opposite opinions and, while this means that it has not always been possible to reach a consensus, I am of no doubt that all have the best interests of passengers and the trade foremost in their thoughts. I am grateful to them all.

I learned from the collective wisdom of the Group that there is no single solution to the challenges facing the taxi and PHV sector. So, each aspect of this study and the consequent recommendation is dependent on others. The report aims to produce a holistic ecosystem and solution to the problems it was devised to address and, as a result, to set out a comprehensive platform for the changes necessary to protect and promote the public interests in the common good.

I would like to make it clear that it is in the public interest to allow, indeed encourage, competitive markets. The arrival of new businesses and new modes of business are the healthy expressions of a market economy. So, provided that public safety and employee working conditions are assured and that appropriate emphasis is placed on congestion, air quality and similar concerns, market change can be welcome.



Licensing conditions should be demanding, arguably to a greater degree than at present, but should not, in effect, prohibit market entry for new businesses.

As my task is now complete, the onus falls to the Secretary of State for Transport Chris Grayling, MP and his Ministers, in particular Nusrat Ghani, and Parliamentarians to take the ideas of the report further and to begin to craft the legislation that it will, in some instances, require. In other instances, I trust that Parliament and the Department will lead the cultural change which is necessary to ensure that passengers, workers, operators, and neighbouring authorities are treated fairly. I look forward to the Government's prompt response to this report in order to maintain the momentum for improvement. Undue delay would risk public safety.

**Professor Mohammed Abdel-Haq**

Chairman, the Task and Finish Group on Taxi and Private Hire Vehicle Licensing.

# 1. List of Recommendations

## Recommendation 1

Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.

## Recommendation 2

Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators (**see recommendation 6**). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England.

Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.

## Recommendation 3

Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations in exceptional circumstances. In this event licensing authorities should publish the rationale for this decision.

Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.

## Recommendation 4

In the short-term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists in London and be combined into one licensing area. In non-metropolitan areas collaboration and joint working between smaller authorities should become the norm.

Government having encouraged such joint working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years.

### **Recommendation 5**

As the law stands, 'plying for hire' is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades.

Government should introduce a statutory definition of both 'plying for hire' and 'pre-booked' in order to maintain the two-tier system. This definition should include reviewing the use of technology and vehicle 'clustering' as well as ensuring taxis retain the sole right to be hailed on streets or at ranks.

Government should convene a panel of regulatory experts to explore and draft the definition.

### **Recommendation 6**

Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).

### **Recommendation 7**

Central Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available.

### **Recommendation 8**

Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and PHVs they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.

### **Recommendation 9**

All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority.

### **Recommendation 10**

Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (**recommendation 2**) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (**recommendation 11**).

**Recommendation 11**

Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHV and taxi – see **recommendation 6**) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross border.

Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.

**Recommendation 12**

Licensing authorities should ensure that their licensing, administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

**Recommendation 13**

Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London.

**Recommendation 14**

The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.

**Recommendation 15**

All ridesharing services should explicitly gain the informed consent of passengers at the time of a booking and commencement of a journey.

**Recommendation 16**

The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.

### **Recommendation 17**

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of inclusion in national minimum standards.

To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards.

### **Recommendation 18**

As Government and local authorities would benefit from a reduction in crime in licensed vehicles both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

### **Recommendation 19**

National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only.

All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

### **Recommendation 20**

All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards.

All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.

### **Recommendation 21**

Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

### **Recommendation 22**

The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of conduct as well as crimes, by taxi and PHV drivers (and applicants) is disclosed ensuring that licensing authorities are informed immediately of any relevant incidents.

### **Recommendation 23**

All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All those cases must be recorded, and the database checked for all licence applications and renewals. Licensing authorities must record the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (**recommendation 24**).

### **Recommendation 24**

As a matter of urgency Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.

### **Recommendation 25**

Licensing authorities must use their existing powers to require all drivers to undertake safeguarding/child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.

### **Recommendation 26**

All individuals involved in the licensing decision making process (officials and councillors) must be obliged to undertake appropriate training. The content of the training must form part of national minimum standards.

### **Recommendation 27**

Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consideration of the appropriate boundary between taxis/PHVs and public service vehicles (PSVs).

### **Recommendation 28**

Licensing authorities must require that all drivers are able to communicate **in English** orally and in writing to a standard that is required to fulfil their duties, **including in emergency and other challenging situations.**

**Recommendation 29**

All licensing authorities should use their existing powers to require that the taxi and PHV drivers they license undergo disability quality and awareness training. This should be mandated in national minimum standards.

**Recommendation 30**

Licensing authorities that have low levels of wheelchair accessible vehicles (WAVs) in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency, the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective.

**Recommendation 31**

Licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.

**Recommendation 32**

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible to report disability access refusals.

**Recommendation 33**

The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV or taxi operator.

**Recommendation 34**

Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry drivers.

## 2. Group membership and task

### Introduction

- 1 The Task and Finish Group was brought together between July and August 2017 by the then Minister of State for Transport the Rt Hon John Hayes CBE MP, and met for the first time in September 2017.
- 2 The Group's objectives were confirmed in the Terms of Reference agreed by its members. The Group was tasked with:
  - Considering evidence relating to the adequacy of current taxi and PHV licensing authority powers, as set out in legislation and guidance, making recommendations for actions to address any priority issues identified. Specifically:
  - Identifying the current priority concerns regarding the regulation of the sector, based on evidence of impact and scale across England;
  - Considering, in particular, the adequacy of measures in the licensing system to address those issues;
  - Considering whether it would advise the Government to accept the recommendations made in the Law Commission's May 2014 report on taxi and PHV legislative reform relevant to the issues, and;
  - Making specific and prioritised recommendations, legislative and non-legislative, for action to address identified and evidenced issues.

#### **Chairman of the Task and Finish Group**

Mohammed Abdel-Haq is a professor in Banking and a Director of the Centre for Islamic Finance at the University of Bolton. Prof Abdel-Haq has a wealth of practical experience in a long career in banking in major financial institutions including Citi Bank, Deutsche Bank, and HSBC. He is the CEO of Oakstone Merchant Bank, Director of the Centre for Opposition Studies at the University of Bolton.

Professor Abdel-Haq was a member of the Council of the Royal Institute for International Affairs (Chatham House) from 2011-2014. In 2011 Prof Abdel-Haq was appointed Chairman of the UK Ministerial Advisory Group on Extremism in Universities and FE Colleges. He was Vice President of The Disability Partnership. Several of his articles on various issues related to public life have been published. Prof Abdel-Haq is a Freeman of the City of Oxford, a member of Amnesty International, a Fellow of the Royal Society of Arts. Prof Abdel-Haq was a Prospective Parliamentary Candidate for Swansea West in the 2005 General Election.



- 3 Membership of the Task and Finish Group:
  - Helen Chapman - Director of Licensing, Regulation & Charging, Transport for London
  - Rt Hon Frank Field MP - - Member of Parliament for Birkenhead
  - Saskia Garner - Policy Officer, Personal Safety, the Suzy Lamplugh Trust
  - Ellie Greenwood - Senior Adviser (Regulation), Local Government Association
  - Dr Michael Grenfell - Executive Director, Enforcement, Competition and Markets Authority
  - Anne Main MP - Member of Parliament for St Albans
  - Steve McNamara - General Secretary, Licensed Taxi Drivers' Association
  - Mick Rix - National Officer for Transport and Distribution, GMB union
  - Donna Short - Director, National Private Hire and Taxi Association
  - Steve Wright MBE - Chairman, Licensed Private Hire Car Association
- 4 To ensure that the Group heard views from a wide cross-section of the sector, it sought written evidence from a range of stakeholders, and further invited a selection of organisations to give oral evidence to the Group. The Group received submissions from 39 organisations and heard evidence from 11.
- 5 Secretariat functions for the Group were provided by officials in the Department for Transport.
- 6 Group members were each able to submit a short summary of their views of this report if they wished to do so; those summaries are attached at Annex A.

## 3. Market function and regulation

### Current regulation

- 3.1 The UK Government is responsible for setting the regulatory structure within which local licensing authorities in England license the taxi and PHV trade. Regulation of taxi drivers in Scotland, Wales and Northern Ireland is devolved to the Scottish Government, Welsh Government and Northern Irish Assembly respectively. This report is focussed on the sector in England only.
- 3.2 Taxi and PHV licensing in England is decentralised; there are 293 licensing authorities. The national legislation is enabling in its nature, giving licensing authorities the discretion to set standards for drivers, vehicles and PHV operators that they deem to be appropriate. There are significant variations in both policy and practice between licensing authorities.

### A changing industry

- 3.3 The Task and Finish Group heard from many stakeholders about the age of the legislation that underpins taxi and PHV licensing, and how it is no longer fit for the modern world. Taxi licensing in England outside Greater London rests on the Town Police Clauses Act of 1847, which of course pre-dates the motor car. PHV licensing outside Greater London rests on the Local Government (Miscellaneous Provisions) Act 1976; significantly less old, but still pre-dating the mobile phone and the internet, both of which are increasingly important means of booking taxis and PHVs. Greater London PHV legislation is newer still, passed in 1998, but this still pre-dates near universal mobile phone use, and smartphone apps.<sup>1</sup>
- 3.4 Legislation has been out of date for many years now, but it seems that the rise of smartphone booking apps, in particular, has thrown the need for an urgent update on legislation into sharp focus. PHV legislation was written for a world where radio signals were unlikely to reach outside the licensing authority area, and people had to go to a local minicab office, or telephone it using a landline, to book a car. The new way of using apps to book PHVs has an ease (as well as safety features and usually value for money) that has proved very popular with passengers, but the law was not written with such technology in mind and so it can be hard to apply to what is happening in reality.
- 3.5 The effectiveness of the highly localised taxi and PHV licensing system has become unsustainable in the face of new internet and smartphone app-based technology and the public's widespread adoption of those methods of arranging taxi and PHV trips. Government, both central and local, should acknowledge such changes and manage

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<sup>1</sup> For simplicity, this report does not describe the separate legislation that licenses PHVs in Plymouth, the Plymouth City Council Act 1975. For the level of detail in this report, it is sufficient to say that its provisions are broadly the same as those in the Local Government (Miscellaneous Provisions) Act 1976.

them to ensure that alongside the benefits being achieved, any negatives are minimised for passengers, the trade and wider communities.

- 3.6 We should also recognise that the changes in how the sector works are being driven by public demand. It is unacceptable to require the public to restrict its reasonable demands to support an outdated framework. It is the market and regulation that must adapt while maintaining high standards.
- 3.7 This report makes a number of specific recommendations about what Government and licensing authorities should do with their taxi and PHV powers, but there is an urgent overarching need to update legislation to reflect much better the reality of the way the trade is operating today. The Government implicitly acknowledged as much by asking the Law Commission to review the legislation in 2011, and it is deeply regrettable that the Government has not yet responded to the report and draft bill which the Commission subsequently published in 2014. Had the Government acted sooner the concerns that led to the formation of this Group may have been avoided.

### Recommendation 1

Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.

- 3.8 Regardless of technological change, the Government should legislate for national minimum standards for the licensing of drivers, vehicles and operators. These minimum standards should be set at a high but still proportionate level that would in practice reduce the need (actual or perceived) for individual authorities to add their own further checks or conditions - **'minimum' should not be understood or treated as meaning 'minimal'**.
- 3.9 The current level of discretion given to local licensing authorities has resulted in very significant and unacceptable variations in standards. Failures by some authorities to uphold high standards for the assessment of drivers, for example, have contributed to the involvement of the taxi and PHV trade in well-documented sexual abuse and exploitation of hundreds of children.
- 3.10 Significant variation in standards and the application of these in the licensing of drivers provides an opportunity for individuals to 'forum shop' for licences. Although factors such as service levels and total licensing cost (i.e. inclusive of fees and training requirements) may provide the motivation for most individuals that seek to obtain a licence from an authority other than that in which they intend to predominantly work, this also enables individuals who would not be deemed 'fit and proper' by one authority to potentially obtain a licence elsewhere. The Government has a responsibility to set a national framework that enables safe and effective licensing, and local authorities have a wider responsibility towards all people both within and beyond their boundaries. Better information sharing amongst authorities is also essential, and this is discussed further in Chapter Four.
- 3.11 The Law Commission recommended that all PHV standards should be set at a national level without the ability for licensing authorities to add additional local conditions, but that taxi standards should be 'minimum standards' which could be supplemented locally. This, in the Commission's view, reflected the more localised

nature of taxi markets, particularly the ability to be hired immediately on the street and the requirement for local knowledge that this brings.

- 3.12 However, other recommendations made in this report would restore the link between licensing authorities and PHVs operating in their area and so national minimum standards are more appropriate in this framework. Taxis and PHVs serve a range of very different localities across England, and local licensing authorities should not be prevented from applying extra conditions to their drivers or vehicles where there is an evidenced need. An example of this might be vehicle conditions, to help address local air quality challenges.

### **Recommendation 2**

Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators (**see recommendation 6**). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England.

Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.

- 3.13 In advance of national minimum standards, the Department for Transport's Best Practice Guidance should be updated; both this and the forthcoming Statutory Guidance should be more directive, to make clearer the requirements and standards that the Government considers are necessary.
- 3.14 All licensing authorities should adopt the Department's recommendations, which should be viewed as the pre-cursors to national minimum standards. Early adoption of these recommendations will therefore assist in the transition for the industry. It will also assist joint working by licensing authorities and in particular support stronger cross-border enforcement activity. The Task and Finish Group heard about current and developing best practice in areas such as Merseyside, West Yorkshire and Greater Manchester. Common standards are the keystone of effective enforcement within regions, giving enforcement officers one set of rules to check drivers and vehicles against, regardless of which authority issued the licences.
- 3.15 There are few barriers that prevent the licensing of operators and drivers in multiple areas, but this is not true for the licensing of vehicles, as requirements in different areas may be contradictory. These variations can include colour; livery; vehicle age restriction both at first licensing and maximum age; whether tinted windows are permissible; seat configuration; engine size (or if electric vehicles can be licensed); and visible signage/ID conditions. It is in the interest of licensing authorities (ease of enforcement), passengers (increased availability) and the trade (increased flexibility to meet demand) for multiple licensing to be possible.

### Recommendation 3

Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations after very careful consideration and in exceptional circumstances. In this event licensing authorities should publish the rationale for this decision.

Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.

- 3.16 In the long term, greater consistency in licensing that will result from national minimum standards raises the question of the appropriate 'level' of taxi and PHV licensing - that is, which administrative level should undertake this function.
- 3.17 The licensing regime should be rationalised. People are increasingly mobile and the licensing regime should reflect the way in which the public use taxi and PHV services. There may be significant benefits to raising the administrative level of taxi/PHV licensing in some areas, whether as part of wider reform or as a distinct proposal.
- 3.18 An example of the benefits that may accrue from raising the licensing level can be seen in the way the system operates in Greater London in comparison to other large urban areas. Transport for London licenses 108,709 vehicles and 142,199 drivers. By way of contrast, Greater Manchester has 10 authorities licensing a total of 13,392 vehicles and 18,085 drivers<sup>2</sup>.
- 3.19 Without Transport for London, London's 33 local authority districts would be able to set its own policies, requirements, taxi fare rates etc. In addition, each of these would have to replicate the associated administration, likely resulting in increased licensing costs which may ultimately increase passenger fares. Importantly, this would also result in immense enforcement problems in the absence of agreements between the districts to enable their enforcement officers to take action against each other's licensees.
- 3.20 The variance in the costs of obtaining licences (fees and to meet requirements) in different licensing areas within one conurbation can be considerable, by matters of hundreds of pounds. The example of licensing in Greater Manchester was highlighted in the Urban Transport Group's report 'Issues and options for city region taxi and private hire vehicle policy'<sup>3</sup> (see fig. 1). The time and cost it takes to obtain a licence can also vary greatly and influence licensing behaviour, exacerbating the number of 'out-of-area' drivers. It is unsurprising that a driver, who is indeed fit and proper by any measure, may still choose to license in a neighbouring authority even if the costs are higher if they will get their licence in a few months rather than two years, and therefore start earning much sooner.
- 3.21 It has not been possible within the timeframe of the Task and Finish Group to make a recommendation as to precisely which authorities (and how many) should be

<sup>2</sup> Data as of 31 March 2017 - <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017>

<sup>3</sup> [http://www.urbantransportgroup.org/system/files/general-docs/UTG%20Taxi%20Report\\_FINALforweb.pdf](http://www.urbantransportgroup.org/system/files/general-docs/UTG%20Taxi%20Report_FINALforweb.pdf)

responsible for taxi/PHV licensing across the country. However, direct electoral accountability must be maintained to ensure that the needs of all residents in any expanded licensing areas are considered.

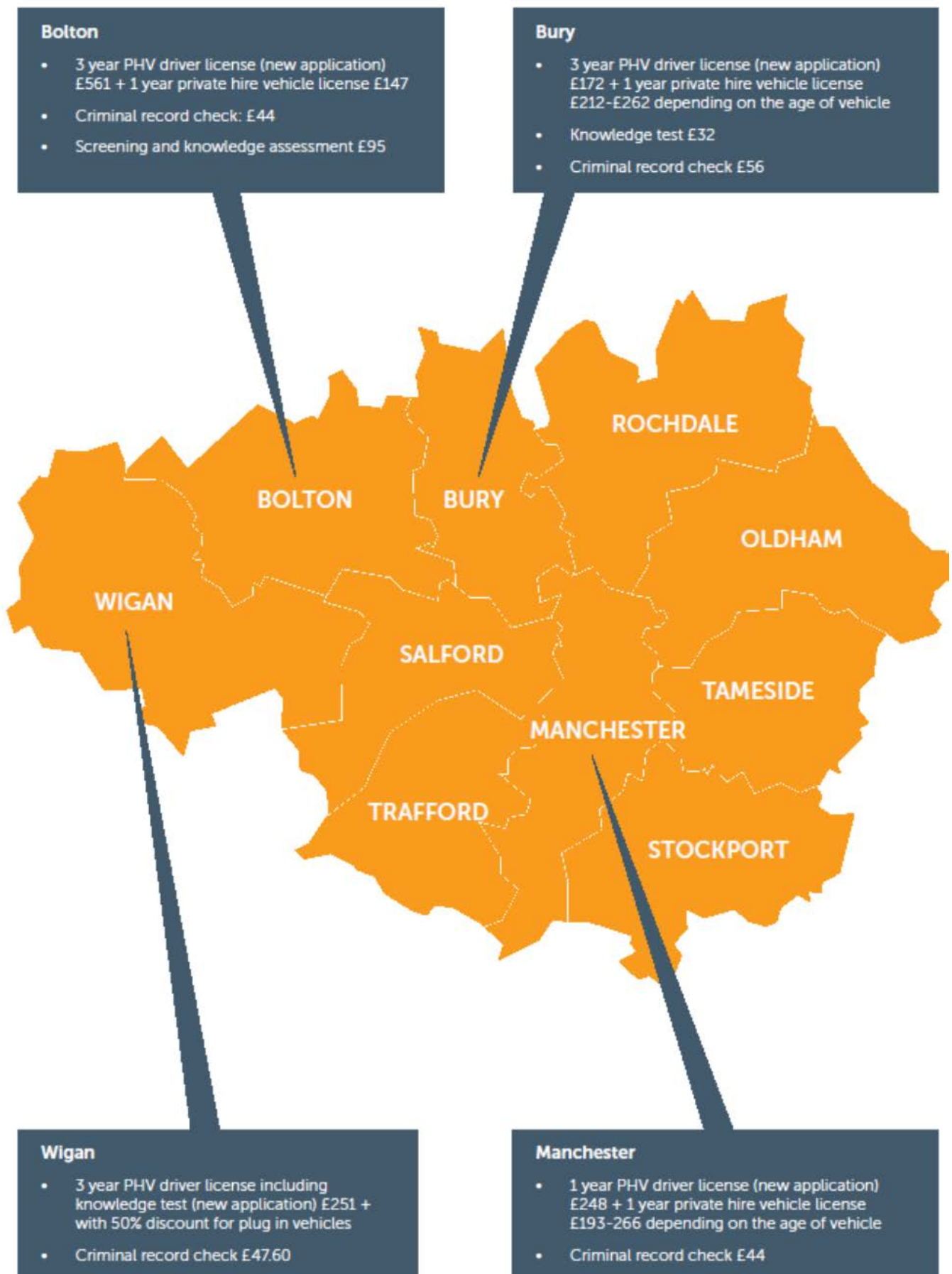
- 3.22 There seems a clear case that large urban areas, particularly those with Metro Mayors, should each be covered by one taxi and PHV licensing authority. Outside those areas, Government should strongly encourage much greater collaboration and joint working between neighbouring authorities, and subsequently review over time whether formal consolidation of more licensing areas is needed.
- 3.23 Where taxi licensing is concerned, larger licensing authorities areas could still retain more localised requirements of taxi regulation, such as quantity restrictions, fare setting, local knowledge testing at the same granular level as now (if deemed beneficial) through the use of taxi zones as are already used in a number of licensing authority areas.

**Recommendation 4**

In the short term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists in London and be combined into one licensing area. In non-metropolitan areas collaboration and joint working between smaller authorities should become the norm.

Government having encouraged such joint working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years

Figure 1 - Licensing in Greater Manchester <sup>4</sup>



<sup>4</sup> <http://www.urbantransportgroup.org/resources/types/reports/taxi-issues-and-options-city-region-taxi-and-private-hire-vehicle-policy>

## The two tier system

- 3.24 Only taxis are available for immediate hire, be it hailed in the street or at a designated rank. Nevertheless, the potentially very short gap between booking a PHV via an app and getting in the vehicle, may appear similar to members of the public to getting a taxi. Indeed the speed and convenience of using an app might be an easier and more attractive option in some circumstances than hailing a taxi.
- 3.25 This increased ease and speed of PHV hiring has significantly eroded the differentiation in service and the potential additional earnings that taxis' ability to ply for hire can provide. The regulation of the sector has not adapted to reflect this erosion. The Task and Finish Group unanimously agreed that there is still merit in the two-tier taxi and PHV system. For example, the setting of maximum fare tariffs for taxis provides an important element of passenger protection, as people are not able to research fares with alternative providers when hiring immediately. This can protect both visitors to an area, who may have no notion of the distance of their journey and what this might reasonably cost, and also local residents who are protected from the charging of excessively high fares when demand is high. At the same time, the unregulated fares of PHVs enable price competition to the benefit of many consumers.
- 3.26 The Group received many submissions which requested that a statutory definition of 'plying for hire' and 'pre-booked' should be introduced to make clearer the different services that taxis and PHVs can provide.
- 3.27 The Law Commission deliberated whether 'plying for hire' should be defined as part of its work, and ultimately recommended that different terms should be defined. In my view, if we are to be supportive of the two-tier system, it is inevitable that we must be able to effectively distinguish those two tiers. Defining 'plying for hire' is essential to that.

**Recommendation 5**

As the law stands, 'plying for hire' is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades.

Government should introduce a statutory definition of both 'plying for hire' and 'pre-booked' in order to maintain the two-tier system. This definition should include reviewing the use of technology and vehicle 'clustering' as well as ensuring taxis retain the sole right to be hailed on streets or at ranks.

Government should convene a panel of regulatory experts to explore and draft the definition.

- 3.28 Taxi 'radio circuits' or taxi smart phone apps undertake a similar function as PHV operators but are not subjected to a 'fit and proper test' as they do not require a licence. PHV operators are under an obligation to ensure that the drivers and vehicles used are licensed by the same authority and that vehicles are insured and in a suitable condition.
- 3.29 A freedom of information request found that in in the 12-month period running from 08 January 2016 to 07 January 2017, 1,290 Transport for London licensed taxis were reported for not having a second MOT test, six months from the date the taxi licence



was granted. However, it is unknown whether any of these vehicles were used for 'taxi radio circuit' work. Transport for London's data for the period April to December 2017 indicated that 27.1% of PHVs and 35.8% of taxis stopped were non-compliant<sup>5</sup>. In both cases, the total number non-compliant vehicles may be higher as these vehicles were identified as a result of 'on-street' enforcement.

- 3.30 It is true, of course, that unlike PHVs where there must be an operator to take a booking for the transaction to be legal, taxis are able to ply for hire. The booking recording function of a PHV operator evidences that a journey has been pre-booked and is essential in ensuring compliance and preventing a PHV from working illegally as a taxi. However, data from Transport for London's Black cabs and Minicabs Customer Satisfaction Survey (Q3 2016/17) evidence that a decreasing proportion of taxi journeys are engaged by hailing or at a rank, down from 83% in 2013 to 66% in 2016. This trend suggests that it is now appropriate for these intermediaries to be regulated in the same way as PHV operators are.

### **Recommendation 6**

Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).

- 3.31 Central Government and local regulators must acknowledge that new technology has fundamentally changed the market and act if the two-tier system is to remain viable. The competition between taxis and PHVs has increased, but taxis are often subject to additional regulation and, where purpose built vehicles are required, significantly higher costs than their PHV counterparts. If the benefits of a two tier system (e.g. there is a higher proportion of wheelchair accessible vehicles (WAVs) in the taxi fleet) are to be maintained, regulators should consider ways to support the taxi trade. The way to do this is not by 'punishing' the PHV trade, but by reducing the additional cost burden that WAV owners face.
- 3.32 Central Government has already recognised the different costs the two sectors can face; the maximum Plug-in-Taxi Grant (for the purchase of wheelchair accessible zero-emission capable (ZEC) purpose-built taxis) is £7,500, compared to the £4,500 maximum Plug-in-Car Grant available for other vehicles; this kind of approach should be explored further. Government and licensing authorities should explore additional financial assistance that could be provided to off-set the additional costs of WAV and/or ZEC vehicles.
- 3.33 There are various mechanisms that could encourage more rapid adoption of ZEC vehicles in area where air quality is or may become an issue; Transport for London's delicensing scheme, for example, provides a payment of up to £5,000 to delicense older (10+ years old) vehicles. All new taxis licensed by Transport for London must now be ZEC.
- 3.34 Taxis, particularly in London, are perceived by the public as reliable "work horses" on the roads for long hours every day. This perception could be at the forefront of changing opinions and attitudes towards electric vehicles, in general, and specifically

<sup>5</sup> <https://tfl.gov.uk/cdn/static/cms/documents/phv-licensing-compliance-and-enforcement-january-2018.pdf>

as viable options for commercial and small goods vehicles. The wider benefits of supporting drivers to get such vehicles on the roads could be considerable.

3.35 Funding could be allocated to subsidise a tiered taxi and PHV licensing structure that exempts or reduces fees for zero emission capable vehicles and/or those which are wheelchair accessible. This would assist those who make the additional investment to use wheelchair and/or accessible vehicles such as the 'black cab' and reflect the additional benefits these would provide the public.

**Recommendation 7**

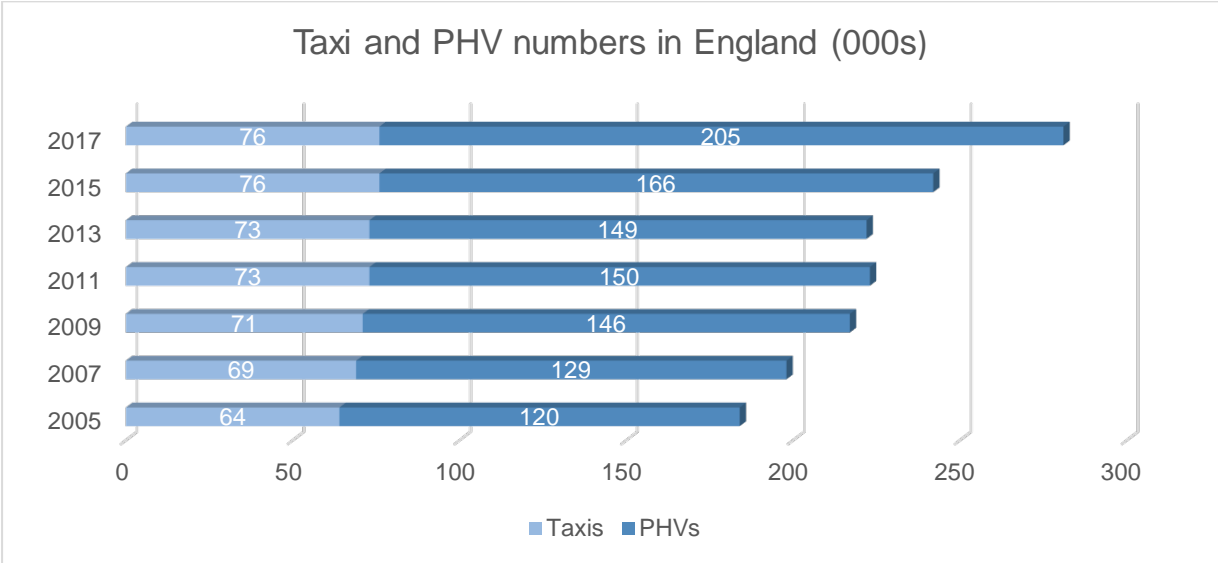
Central Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available.

### A growing industry

3.36 The sector has seen rapid growth in recent years. The total number of licensed taxis and PHVs in England reached record levels in 2017, increasing by 26% since 2011 to 281,000<sup>6</sup>. This growth has not been uniform across the two tiers, but was driven by the 37% increase in PHVs over the period, compared to the 3% increase in taxis. In 2017, 73% of all licensed vehicles in England were PHVs; in 2011 this proportion was 67%.

3.37 The increase in licensing numbers is also inconsistent across England; to give just some examples, the number of PHVs licensed by Transport for London increased by 39% between 2011 and 2017 to 87,400; in the same period, the number of PHVs licensed by Wolverhampton City Council increased by 434% to 2,949; but decreased by 37% in Tandridge District Council to just 46.

**Figure 2 - Taxis and PHVs in England (DfT survey 2017)<sup>7</sup>**



<sup>6</sup> <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017>

<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/642761/taxi-private-hire-vehicles-2017.zip](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/642761/taxi-private-hire-vehicles-2017.zip)

- 3.38 Currently, licensing authorities outside Greater London have the ability to restrict the number of taxis they license. As of 31 March 2017, 90 English authorities do, to balance the supply and demand of services. Legislation does not currently allow PHV licences to be restricted in such a way, and the Group received a number of submissions arguing in favour of changing this.
- 3.39 Granting licensing authorities the power to cap the number of PHVs could give them an extra tool to help reduce levels of congestion in areas where high numbers of PHVs operate and thereby address in part air quality issues. To use the power for those purposes would require a public interest approach, not merely the "unmet demand" test currently applied to allow the limiting of taxi numbers.
- 3.40 There are potential drawbacks to licence restriction, including administrative burden, restriction of competition and restriction of work opportunities for drivers. Carrying out a clear, well evidenced and considered public interest test before a numbers restriction can be applied would enable an authority to weigh up those factors and make a balanced decision.
- 3.41 This matter was considered as part of the Law Commission's review, albeit in the case of taxis rather than PHVs, but their consideration of what a public interest test should include could equally apply to both segments of the trade. Any test should include matters such as:
- the interests of taxi and PHV users, particularly those of disabled people
  - the interests of licensees
  - the need to avoid traffic congestion, and
  - the need to preserve the environment
  - and for taxis, the need to avoid excessive queues at ranks

### **Recommendation 8**

Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and PHVs they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.

## Cross-border and out-of-area working

### Background

3.42 Although taxis and PHVs are locally licensed, the passenger journeys they can carry out are not restricted solely to their licensed area.

#### **Cross-border / out of area working: a simplified summary**

- **Taxis** can only ply for hire (to be flagged down or hired from a rank) in their licensed area, but can generally undertake pre-booked work anywhere.
- A **PHV** driver, vehicle and operator must all be licensed in the same area for a journey to be carried out legally - but the journey itself does not need to be in that licensed area: e.g. a London-licensed vehicle and driver can be booked through a London-licensed operator to carry out a passenger journey that takes place entirely in St Albans.
- A **PHV** booking can also be sub-contracted: e.g. a St Albans-licensed operator could take a booking, and arrange for another operator to carry it out: this could be another St Albans-licensed operator, or an operator licensed by any other authority, who would need to fulfil the booking using a driver and vehicle licensed by the same authority as they are.

3.43 The ability for a PHV journey to take place anywhere, so long as the driver, vehicle and operator are all licensed by the same authority, comes from the original licensing legislation (the 1998 Act for London, and the 1976 Act elsewhere). It was always possible for a PHV operator to sub-contract a booking to an operator licensed in the same area. Greater London operators have always been able to sub-contract bookings to operators in other areas, and that ability was extended to PHV operators outside Greater London by Section 11 of the Deregulation Act 2015.

3.44 Although all PHV operators have always been able to accept bookings regardless of the start and end point of a journey, in practice the advertising of their services and the ability of operators to maintain contact with drivers reduced the likelihood of booking requests from distant locations being received.

### The issue

3.45 New technology has changed the landscape. The members of the public who use apps for booking PHVs carry with them the ability to request a vehicle anywhere. It is not necessary for the subcontracting process to be undertaken to facilitate the dispatching of an out of area driver to fulfil a booking. An operator could currently, if it chose to, operate nationally on a single licence. It is unlikely that this is what was intended when the legislation was drawn up, and it underlines that it is no longer fit for purpose.

3.46 Not all 'cross-border' work is a concern: many journeys will naturally start within one licensing authority and end in another, and the framework should allow this. In areas near to the boundaries of licensing authorities, and particularly in city and urban locations with multiple authorities, there will be high levels of cross-border working. Operators will sometimes fulfil bookings out of their licensing area to reduce dead

mileage, or meet vehicle type requirements (e.g. wheelchair accessible vehicles) when none are available locally. A passenger may have confidence in the safety and quality of a service that a particular operator provides and would prefer to use that favoured operator regardless of the start and/or end points of their journey. This is perhaps more likely in the executive and chauffeur segment of the PHV market.

- 3.47 However, the Group have heard from many sources about the increasing numbers of drivers who now work entirely at (sometimes considerable) distance from the authority that licensed them. The Group saw no evidence of precise numbers but anecdotal evidence is that it is widespread, particularly of drivers licensed by Transport for London but living in cities far away making it highly unlikely that they would travel to London before working. Figure 3 show a map of the home addresses of Transport for London licensed drivers by postcode.
- 3.48 It is difficult for licensing authorities to be effective in monitoring the activities of drivers who are working in this way. The enforcement officers of one authority cannot undertake enforcement action against taxis or PHVs licensed by other authorities. An authority could send its enforcement officers to carry out checks in known 'hot-spots' for its drivers, but while this seems reasonable for an adjoining licensing area, it seems an inefficient solution when the distances involved can be so great. In conjunction with the earlier recommendation on national minimum standards, all licensing authorities should have the powers to take enforcement action against those standards regardless of where a specific driver or vehicle is licensed. So, for example, a Bristol City Council licensing enforcement officer should be able to stop and question any taxi or PHV driving in Bristol regardless of which authority issued the licence. The Group heard evidence that taxis and PHVs can carry passengers across different boundaries and nobody can monitor their compliance or question them. This is simply wrong.

#### **Recommendation 9**

All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority.

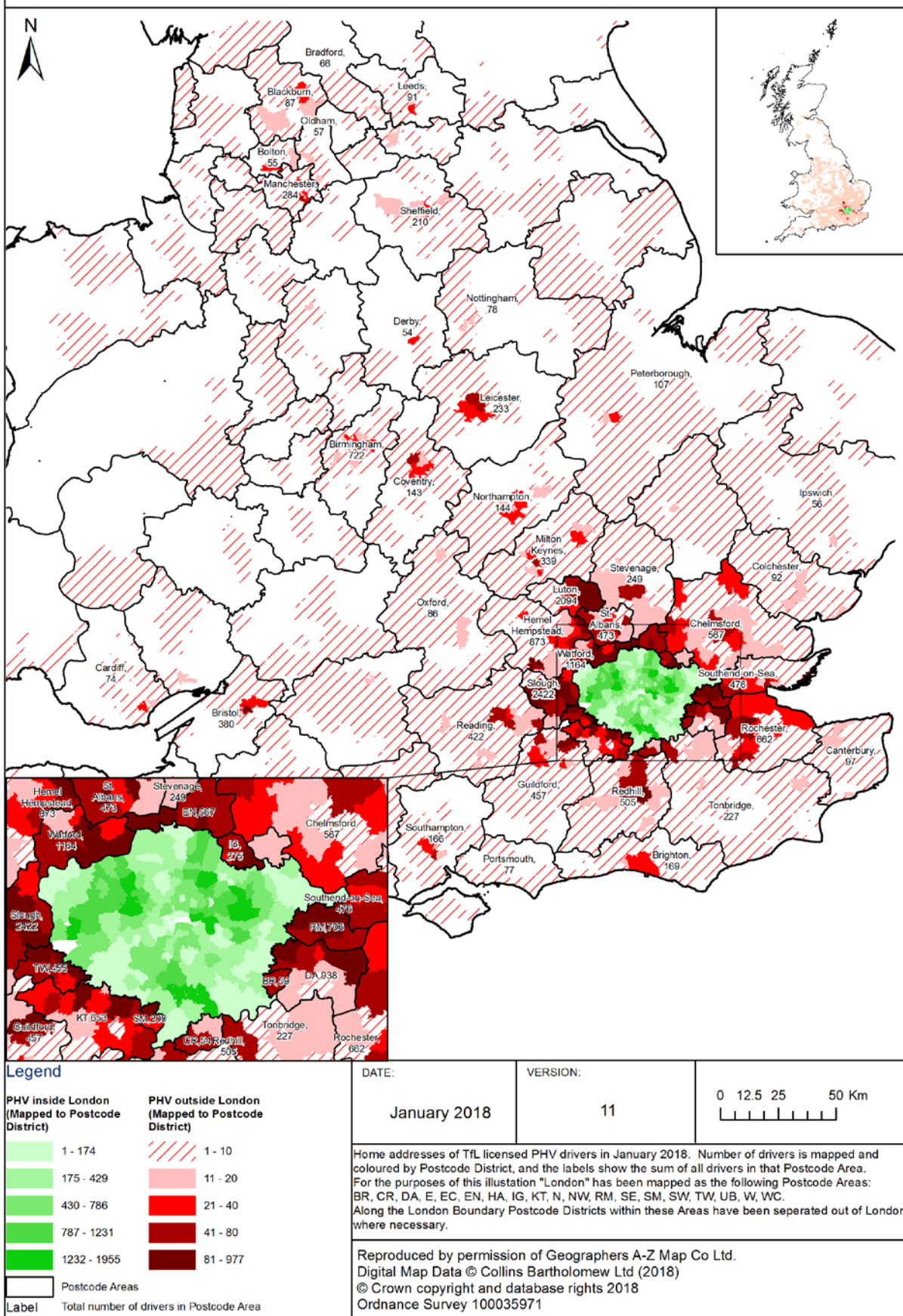
#### **Recommendation 10**

Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (**recommendation 2**) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (**recommendation 11**).

- 3.49 This report has already recommended that licensing authorities should be able to restrict the number of taxi and PHV licences they issue. However, without a method to prevent vehicles licensed in other areas from working within the "capped" area, any restriction could be easily circumvented by someone licensing elsewhere and simply working remotely within the "capped" area.

**Figure 3 - Home postcodes of active Transport for London licensed PHV drivers, January 2018**

**Figure 4: Prevalence of active London-licensed private hire drivers with home addresses outside London**



- 3.50 A number of submissions to the Group supported a proposed restriction that taxi and PHV journeys should only be permitted where the start and/or end point are within the licensing area of the driver, vehicle and (for PHVs) operator. This was primarily proposed to address concerns over the drivers operating predominantly or exclusively outside of the area in which they are licensed.
- 3.51 That proposal is the most effective on the table. There would be a need to carefully consider any flexibilities that may be needed to allow for specific destinations to continue to be served without disruption (e.g. airports), business models to continue (e.g. in the chauffeur / executive hire sector), or specific services for the disabled to not be disrupted.
- 3.52 All those matters would need careful further work, to reduce the risk of causing damage legitimate business models and passenger choice. The potential negative aspects of the proposed restriction would be greatest in inner-city areas which have many boundaries. Without the reduction of licensing authorities proposed in recommendation 4, and the resulting larger areas, all parties would be detrimentally affected. With small geographic areas and more borders, passengers in these areas may no longer be able to use their favoured PHV operator even if these were the closest but simply as a consequence of being the wrong-side one of the many boundaries.
- 3.53 Rationalising the number of licensing areas in these locations would have benefits in its own right, but would also significantly reduce the negative impacts of a start/end point restriction.

### **Recommendation 11**

Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHVs and taxis – see **recommendation 6**) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross-border.

Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.

### **Licensing fee income**

- 3.54 Taxi and PHV licensing fees must be set on a cost recovery basis. They should reflect the true costs of the regime, and should not be used by licensing authorities to make profit or be subsidised by the council tax payer. Licensing authorities should ensure that the administration, compliance and enforcement of taxi and PHV licensing is sufficiently funded to enable an efficient process.
- 3.55 Resourcing functions based on revenue received approaches the issue the wrong way around. Licensing authorities should of course aim to deliver value for money by working efficiently, but that is not the same as at the lowest possible cost. Licensing authorities should first establish what resources are required to adequately administer and enforce the regime and set the licensing fees based on this. For example, the Group received evidence of how the funding of a police intelligence liaison officer can significantly improve cooperation and the flow of information. The resourcing of initiatives such as this may be beneficial but prove prohibitive for some

of the smaller licensing authorities, the restructuring proposed in recommendation 4 would result in authorities operating at a scale which enable them to resource these activities but removing administrative duplication and spreading the costs across a wider pool of licensees.

### **Recommendation 12**

Licensing authorities should ensure that their licensing, administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

## **Pedicab regulation in London**

- 3.56 One result of having different taxi legislation applicable to London and the rest of England is that pedicabs (sometimes called rickshaws) cannot be regulated in the former. Case law has established that they are classed as "stage carriages" in the context of London taxi law, and therefore out of scope of taxi regulation. While there should be a place for a safe and responsible pedicab trade, particularly in Central London, there has been much justified criticism in recent years of rogue pedicab operators taking advantage of tourists with excessive charges and absence of safety checks.
- 3.57 It is not acceptable that Transport for London is unable to regulate pedicabs to ensure a safe service; the Government announced in 2016 that it would rectify this, and the legislation should be brought forward as soon as possible.

### **Recommendation 13**

Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London.

## **Fixed Penalty Notice for minor compliance infringements**

- 3.58 The enforcement of minor licensing infringements can be excessively burdensome on licensing authorities and frustrates their efforts to raise standards within their area. There are important benefits to setting a culture where licensees know that they must adhere to the basics or else face sanctions, freeing up officials and enabling them to focus on more serious matters.
- 3.59 Transport for London has proposed that it should be enabled to issue Fixed Penalty Notices to PHV drivers as it already is to taxi drivers who have breached minor licensing requirements such as failing to wear their badge. Transport for London's view is that this immediate financial deterrent would expand the enforcement options available to them to increase compliance and reduce the need to resort to more expensive measures that ultimately increase licensing fees for the majority of drivers that are compliant. The Local Government Association's initial submission to the working Group also called on licensing authorities to have modern enforcement tools such as Fixed Penalty Notices and stop notices.



3.60 Transport for London has elected not to make use of the powers it currently has to issue Fixed Penalty Notices until it is able to apply the same to PHVs. As stated elsewhere in this report, the two tiers of the trade should as far as practicable be treated equitably. Elsewhere in this report the case has been made for greater consistency in regulation across England in part to underpin national enforcement powers of national standards. Therefore it would be appropriate for the powers to issue Fixed Penalty Notices to be available to all licensing authorities, for both taxis and PHVs.

**Recommendation 14**

The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.

## Ridesharing

- 3.61 Ridesharing services in this context refers to the sharing of taxis or PHVs for hire by individuals that are unknown to each other prior to the beginning their trips. This form of service may provide members of the public with cheaper fares as costs are shared, and better utilise the capacity of vehicles, thereby reducing congestion and pollution. But there are potentially increased risks, too.
- 3.62 The limited time available to the Group has required that attention was focussed on key areas of urgent concern. While the issue of ridesharing has not been considered in depth, it should be clear to all that use these services that that they consent to sharing a confined space with people that are unknown to them. Operator and drivers should be required to make this clear when booking and at the start of a journey.
- 3.63 Where a taxi or PHV is no longer used entirely for exclusive private hire, the arguments in favour of mandating CCTV are enhanced; the argument that CCTV may represent an invasion of privacy is reduced greatly if not entirely negated, as there can be no argument that the vehicle is a private space. The use of CCTV is discussed further in Chapter Three.

**Recommendation 15**

All ridesharing services should explicitly gain the informed consent of passengers at the time of the booking and commencement of the journey.

## 4. Safety in taxis and private hire vehicles

### Public protection

- 4.1 One of the most important considerations of any regulatory system is safety. It is of paramount importance that passengers using taxis or PHVs can get into a vehicle knowing that their driver has been rigorously checked and deemed to be a suitable person to carry passengers. The enclosed nature of a taxi or PHV affords a potential opportunity to a person who wishes to take advantage of the vulnerable. It is important to recognise that in different circumstances, it may be either the passenger or the driver who is vulnerable.
- 4.2 The vast majority of licensed taxi and PHV drivers in the UK are decent and law-abiding people. Nevertheless, there have been recent and numerous cases of licensed drivers participating in, or enabling, child sexual exploitation as well as isolated opportunistic attacks on passengers. Following these horrendous offences, many licensing authorities have acted to address the failings that contributed to enabling these incidents. The lessons from the Casey and Jay reports and the impact on the lives of those affected by these and other failures must not be forgotten. To do otherwise would compound the harm and injustice done to the victims. No licensing authority should consider that the lessons learned do not apply to them merely because there have not been significant reports of such activity in their area: many of the previous offences in these cases have only become known many years after the event. Neither central government nor licensing authorities can provide absolute assurances of safety, but licensing authorities have the powers to mitigate the risks now. In the long term it is for central government to act to enable the mandating of standards to force any complacent authorities to act.
- 4.3 The Policing and Crime Act 2017 gave the Government the power to issue Statutory Guidance to local licensing authorities on the way taxi and PHV licensing powers should be used to protect children and vulnerable adults. That guidance should ultimately form the core of the national safety standards for both the taxi and PHV sector, and it should be issued as soon as possible.
- 4.4 Until national minimum standards for the taxi and PHV sector are introduced, the Statutory Guidance provides an opportunity to take a significant step towards in greater consistency in how the safety elements of the 'fit and proper' test are applied.

- 4.5 The application of high standards with regard to safety would provide increased public confidence in the sector and mitigate the potential for drivers to seek out areas where standards are applied less rigorously.

### **Recommendation 16**

The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.

- 4.6 Under the current highly devolved regulatory framework, local licensing authorities have a pivotal role in the effectiveness of guidance. Once the guidance has been issued, licensing authorities should play their part and give it due consideration. The Department for Transport should also monitor the overall effect of the guidance; the policies outlined will only be as successful as their implementation.
- 4.7 Until such time as the Government brings forward legislation to mandate national minimum standards, licensing authorities should work collectively to increase consistency. As the recommendations made in the Statutory and Best Practice Guidance are the Government's views, it is reasonable to assume that these would be considered as the basis for national minimum standards. As noted earlier in this report, licensing authorities would not be acting in the long-term best interests of the trade to divert far from the recommendations, as this may result in a period of significant change in standards and requirements at a later date.

## **CCTV**

- 4.8 The Group received a number of submissions and heard from witnesses about the benefits of having CCTV in taxis and PHVs. There were numerous positive comments regarding the potential benefits that CCTV might provide to both passengers and drivers. The vast majority of taxi and PHV passengers receive a good and safe service but the few drivers that abuse their position of trust undermine public confidence in passenger safety. CCTV can reaffirm or increase passenger confidence.
- 4.9 CCTV would not just protect passengers. In England and Wales, approximately 53% of taxi and PHV drivers are non-white, a much higher than average percentage of the workforce. The Group heard from the United Private Hire Drivers that 50% of drivers it surveyed had been threatened or assaulted and that 57% had been racially abused while working.
- 4.10 Where both cameras and audio recording is used, those who verbally and physically abuse drivers would do so knowing that the attack would be recorded, providing invaluable evidence to enforcement agencies. There are also incidents of false allegations being made against drivers, and CCTV evidence can protect drivers from potentially losing their licence and their livelihood.

4.11 Only a small number of licensing authorities in England currently require CCTV in their licensed vehicles<sup>8</sup>; however, there is a strong case for having CCTV in taxis and PHVs, and licensing authorities which do not already mandate CCTV should do so. The concern most commonly raised is the costs of installing and maintaining CCTV systems. These do not however appear to be unreasonable for owners of licensed vehicles to bear given an assumed operational life of a system and the potential for reduced damage to the vehicle. The majority of taxis and PHV are owner driven - these could benefit from reduced abuse and assaults by passengers, reduced fare evasion and potentially increased passenger usage through greater confidence in the sector.

#### **Recommendation 17**

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of inclusion in national minimum standards.

To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards.

4.12 It is however not just the driver and passenger that CCTV can benefit. Licensing authorities are better able to make an informed decision whether to take no action, suspend or revoke a licence following a complaint. This evidence can be used at court should the driver appeal a decision, and it may even prevent the driver guilty of misconduct from launching an appeal. Society as a whole benefits from increased protection from crime.

4.13 Yet mandating CCTV in vehicles will incur extra cost for many small businesses, the vast majority of drivers currently consider as such. Recognising the benefits to society, ways of helping with individual and small business costs should be seriously explored.

#### **Recommendation 18**

As Government and local authorities would benefit from a reduction in crime in licensed vehicle both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

4.14 Technology has advanced rapidly in recent years and what may once have been an expensive and difficult to achieve is now common place. GPS has provided an accurate and reliable way to track vehicles for many years now. These advances can further public safety (driver and passengers) by recording the movements of vehicles and provide valuable evidence in proving or disproving an allegation. As part of the

<sup>8</sup> <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017> (Table 0106)

work that will be required to set an appropriate minimum standard for CCTV systems in taxis and PHVs, the Government should also consider whether and how GPS tracking could also be included.

- 4.15 As discussed previously in this report, the public often view taxis and PHVs as providing identical services. Plying for hire by PHVs and unlicensed vehicles is illegal and should not be tolerated under any circumstances. However, when the public see a licensed PHV they may attempt to hire this immediately through confusion between the two-tiers of the system. Raising public awareness of the differences between taxis and PHVs protects all parties; passengers use the appropriately insured and licensed drivers and vehicles, taxi drivers receive the benefits of their exclusive right to 'ply for hire' in recognition of meeting the relevant requirements and law-abiding PHV drivers will not face confrontation from refusing to carry passengers that have not pre-booked.

### **Recommendation 19**

National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only.

All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

## **Background checks and information sharing**

- 4.16 To enable licensing authorities to make the best decisions on applications they receive, and to support greater consistency, they should have as complete as possible a picture of the applicant's background. It is welcomed that all licensing authorities require an enhanced Disclosure and Barring Service (DBS) check for all drivers<sup>9</sup>; however, only 77% report that they currently also check the barred list for both taxi and PHV drivers, and there is no reason why this should not be 100%. This can be carried out at no extra charge.

<sup>9</sup> Department for Transport's 2017 Taxi and Private Hire statistics - <https://www.gov.uk/government/collections/taxi-statistics>

4.17 The DBS update service is an online subscription that allows individuals to keep their standard or enhanced DBS certificate up to date and allows employers and regulators to check a certificate online. This subscription service therefore allows taxi and PHV drivers licensing authorities (as a nominee with the individual's consent) 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. This will more cheaply and easily allow licensing authorities to undertake checks other than at first application or renewal. Drivers are licensed for three years and vehicles usually on year however vehicles are routinely checked every 6-12 months to ensure they continue to meet the standards required. Interim checks on the continued suitability of driver does not therefore seem disproportionate.

#### **Recommendation 20**

All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards.

All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.

#### **Recommendation 21**

Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

4.18 There is a concern that critical information about the risk posed by a driver is not always being shared with licensing authorities by the police, under the Common Law Police Disclosure (CLPD) provisions. It is vital that licensing authorities have access to this 'soft intelligence'; patterns of behaviour such as complaints against drivers (regardless of whether they were working) even when these do not result in arrest or charge may be indicative of characteristics that raise doubts over the suitability to hold a licence. Provision of this helps authorities to build a fuller picture of the potential risks an individual may pose. This information may tip the 'balance of probabilities' assessment that licensing authorities must undertake.

4.19 The CLPD provisions enable new information obtained by the police to be rapidly passed on to licensing authorities, rather than information becoming known to them through a DBS check some time after an incident. However, a survey carried out by the Institute of Licensing of its local authority members in 2017 shows that less than 25% of respondents consider that the current data sharing agreements are satisfactory. This process can be of huge benefit to protecting the safety of

passengers and it is imperative that the maximum protection this provides is being delivered.

### **Recommendation 22**

The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of behaviours as well as crimes by taxi and PHV drivers (and applicants) is disclosed to and to ensure licensing authorities are informed immediately of any relevant incidents.

- 4.20 The current efforts of the Local Government Association to create a register of drivers who have been refused or revoked taxi or PHV driver licences, in conjunction with the National Anti-Fraud Network (NAFN), are to be welcomed. It was disappointing to see that the Private Members Bill brought by Daniel Zeichner MP, which would have made use of such a register mandatory, failed to pass its Second Reading in the House of Commons on 2 February when the bill was "talked out".
- 4.21 Without that Bill, it is hoped that all licensing authorities will use the register as only complete coverage will make the most of the benefits. It is unacceptable that a driver could have a licence refused or revoked on safety grounds by one authority, but gain a licence in an another authority by virtue of not disclosing that history. A DBS check may not provide the cause for a refusal or revocation by another authority; this would depend, for example, on whether the decision was based on previous convictions or on 'soft-intelligence' received. The register will enable past revocations or refusals to be flagged, and the authority considering an application to seek further information from the refusing authority.
- 4.22 Even with that information, decisions must still be made in accordance with the policies of the authority that is handling the application - a refusal in one area must be fully understood and should not be an automatic bar to a licence being issued elsewhere; for example, if one refusal has been made on the basis of a conviction, but sufficient time has now passed during which the applicant has demonstrated continued good character to comply with the authority's convictions policy. The system will provide an extra safeguard for the public, not a blacklist of drivers; licensing authorities will continue to make independent judgements whether, on the balance of probabilities, an individual is fit and proper. The purpose of this database is to assist licensing authorities in this assessment by enabling as fully a picture of an individual as possible to be considered.

### **Recommendation 23**

All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All refusals and revocations must be recorded, and the register checked for all licence applications and renewals. Licensing authorities must retain the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (**recommendation 24**).

- 4.23 In addition, a broader national database of all taxi and PHV licences, for drivers vehicles and operators should be introduced. This would be a significant aid to cross-border enforcement, complementary to the national enforcement powers recommended. In the current absence of such powers, it would still improve the ability of authorities to be able to identify where driver and vehicles are licensed in order to report concerns or issues to the "home" licensing authority, or indeed the police.

#### **Recommendation 24**

As a matter of urgency Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.

### **Training and engagement**

- 4.24 It is important that drivers are equipped with the skills and knowledge they need to identify situations where vulnerable passengers may be at risk. Over half of licensing authorities currently require their drivers to undertake child sexual abuse and exploitation (CSAE) awareness training, and this is good practice that all licensing authorities should follow. It is not sufficient to wait for evidence of a 'problem' within a licensing area before doing this.
- 4.25 As part of that training, and their wider engagement with drivers, licensing authorities should remember that their network of checked and trained, professional drivers can be an important source of intelligence about signs of abuse and neglect amongst their passengers. Poorly checked and trained drivers may pose risks, but well trained and supported drivers can be an important part of the solution. An example of the positive contribution the trade can play is that of Cherwell District Council driver Satbir Arora, whose awareness prevented a 13-year-old girl from meeting a 24-year-old male who was convicted of attempted abduction and the distribution and making of indecent images.

#### **Recommendation 25**

Licensing authorities must use their existing powers to require all drivers to undertake safeguarding/child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.



## Improving decision making

- 4.26 Implementing national standards, including those on the consideration of convictions, will be a huge step toward greater consistency in licensing decisions. There have been examples of individuals that have been issued licences despite convictions for serious offences. However all licensing decisions are ultimately made by individuals, not policy documents. It is essential therefore that those involved in the determination of licensing matters have received sufficient training to discharge their duties effectively and correctly. This training should cover licensing procedures, natural justice, understanding the risks of child sexual exploitation, consideration of 'soft intelligence', and disability and equality, 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.

### **Recommendation 26**

All individuals involved in the licensing decision making process (officials and councillors) must have to undertake appropriate training. The content of the training must form part of national minimum standards.

## Use of Passenger Carrying Vehicle (PCV) licensed drivers

- 4.27 Driving a Public Service Vehicle (a vehicle that can carry 9 or more passengers e.g. a minibus or bus) for hire or reward requires a PCV licence. PCV driver licences are issued by the Driver and Vehicle Licensing Agency (on behalf of Traffic Commissioners). Unlike taxi or PHV drivers, applicants for a PCV licence are not subject to any routine DBS checks (neither basic nor enhanced).
- 4.28 Applicants for a licence to drive passenger minibuses and buses must complete an application form and declare any convictions for non-driving offences as well as those relating to driving hours, roadworthiness or loading of vehicles as well as any.
- 4.29 The declaration of any offences will result in the DVLA notifying the relevant Traffic Commissioner so the applicant's suitability to hold the licence, in relation to their conduct, may be reviewed. Traffic Commissioners may grant refuse, suspend or revoke driving entitlement, taking into account passenger safety.
- 4.30 However, a number of areas have experienced issues whereby individuals whose taxi or PHV licence or application have been refused or revoked have applied to the Driver and Vehicle Licensing Agency and obtained a PCV licence, and these individuals have then carried passengers driving a minibus. In some cases, people who have had their licence revoked have even continued to work for the same operator.
- 4.31 This is an issue that has clear implications for passenger safety. Although it may technically be outside the scope of taxi and PHV licensing, there are evidently clear overlaps in practice. It is not acceptable that individuals that are deemed to be unfit to carry passengers in a vehicle that seats fewer than nine passengers are able to do under a different licensing system, simply because there are additional seats in a vehicle.

### **Recommendation 27**

Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consider the appropriate licensing boundary between taxis/PHVs and public service vehicles (PSVs).

## Language skills

4.32 It is important that drivers are able to converse effectively, and particularly so in emergency situations. Drivers should be able to:

- Converse with passengers to demonstrate an understanding of the desired destination, an estimation of the time taken to get there and other common passenger requests;
- Provide a customer with correct change from a note or notes of higher value than the given fare, and doing so with relative simplicity;
- Provide a legibly written receipt upon request.

### **Recommendation 28**

Licensing authorities must require that all drivers are able to communicate **in English** orally and in writing to a standard that is required to fulfil their duties, **including in emergency and other challenging situations.**

## 5. Accessibility

### The importance of the taxi and PHV market

- 5.1 As an introduction to this chapter, from the following quote from the evidence received from the Disabled Persons' Transport Advisory Committee (DPTAC) sets the scene appropriately:

'For those who cannot use public transport, either due to the nature of their conditions or because they live in areas with a poor public transport service, taxis can be the key element allowing them to live independently.'

**Submission from DPTAC, November 2017**

- 5.2 Evidence received by the Group highlighted that consideration of accessibility needs is essential in any reform of the sector. If the Government enacts national standards, accessibility considerations should be an integral part of their development, not a mere add-on. In the short term, it is important that licensing authorities use the powers they already have to improve access and passenger experience.

### Training

- 5.3 The 2017 taxi and private hire statistics show that only 38% of licensing authorities in England require their taxi drivers to undertake disability equality training, and 35% require it for their PHV drivers. This training should be a national requirement as part of national standards, but licensing authorities have the power to require it now and should do. It is important that drivers working in a sector that can be a lifeline for those unable to use public transport understand that position, and how they can best support their passengers.

#### **Recommendation 29**

All licensing authorities should use their existing powers to require that their taxi and PHV drivers undergo disability equality and awareness and equality training. This should ultimately be mandated as part of national minimum standards.

## Vehicle types and access

- 5.4 As can be seen in figures 4 and 5, the proportion of vehicles licensed by different authorities that are wheelchair accessible varies considerably. The 2017 statistics show that 63% of authorities require their taxi fleets to be a wheelchair accessible vehicle (WAV). These figures show that in England (excluding London) 41% of taxis are WAVs but this is only part of the story; in over a quarter of authorities, 5% or fewer of taxis are accessible. The situation is even worse for PHVs - nearly two-thirds of authorities have a fleet in which 5% or fewer of PHVs are wheelchair accessible.
- 5.5 Standard (non-WAV) vehicles remain important too: most disabled people do not use wheelchairs, and many people will find saloons easier to get in and out of. Mixed fleets are important, reflecting the diverse needs of passengers, but nonetheless, levels of WAV PHVs in particular (given the significant increase in PHVs in recent years) appears low in even the most populous areas. I have outlined one way in which licensing authorities can seek to increase availability in paragraph 3.35.

### **Recommendation 30**

Licensing authorities that have low levels of wheelchair accessible vehicles (WAVs) in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective.

- 5.6 It is welcome that in 2017, the Government brought sections 165 and 167 of the Equality Act 2010 into force, ensuring that drivers of wheelchair vehicles that a licensing authority designates for this purpose cannot charge wheelchair users more than non-wheelchair users, and must provide appropriate assistance.

### **Recommendation 31**

Licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.

- 5.7 It is illegal for a taxi or PHV driver to refuse to carry an assistance dog, unless the driver has obtained a medical exemption certificate from their licensing authority. Despite this, a recent campaign by the Guide Dogs for the Blind Association indicates that nearly half of guide dog owners surveyed had experienced an access refusal in the past year. This is unacceptable, and licensing authorities should ensure that strong action is taken when instances are reported. Driver awareness is also

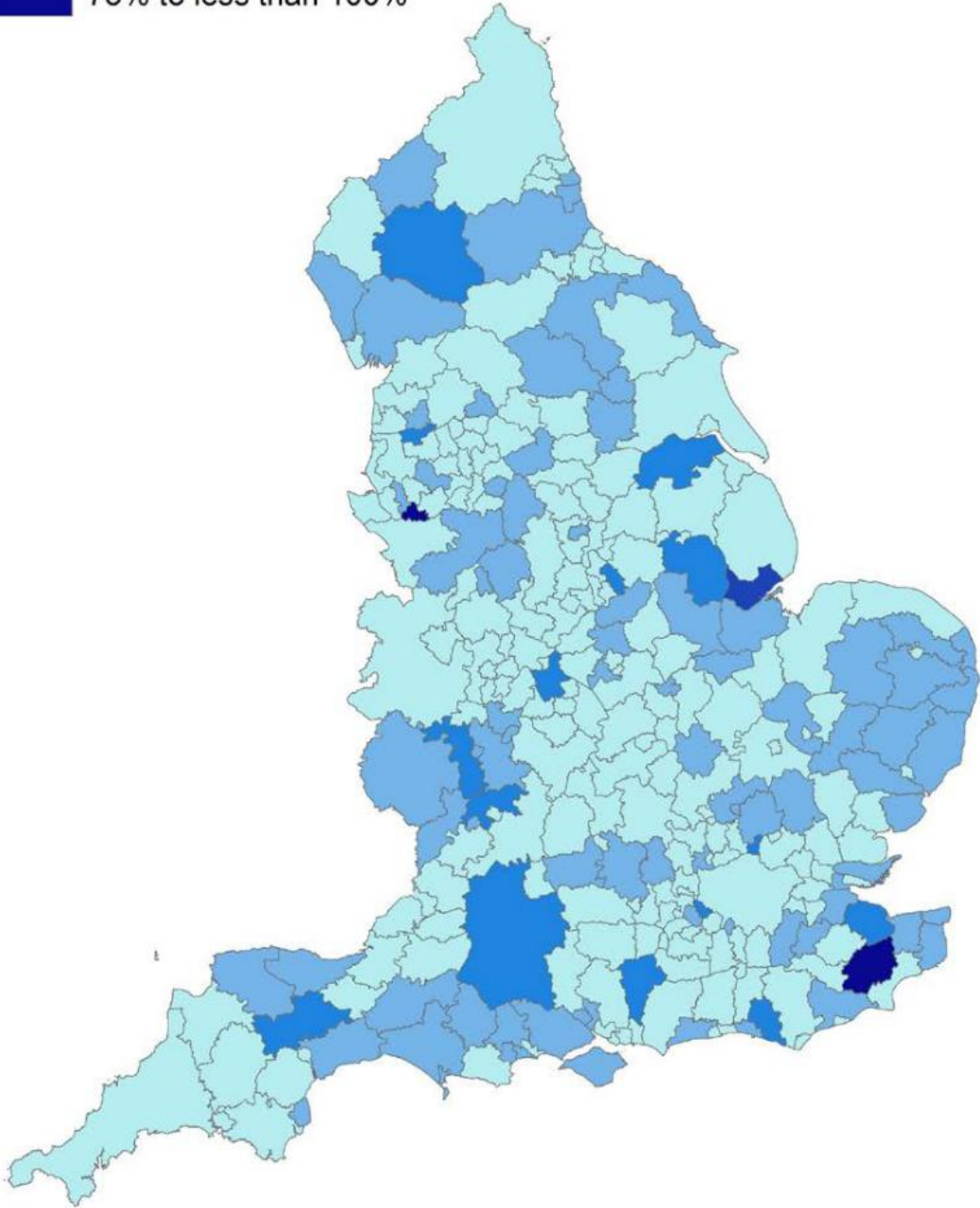
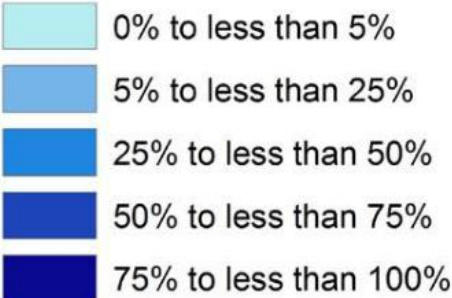
critical, and the earlier recommendation in favour of mandatory disability equality training would address this.

**Recommendation 32**

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible for passengers to report disability access refusals.

Figure 4 - Wheelchair accessible PHVs in England<sup>10</sup>

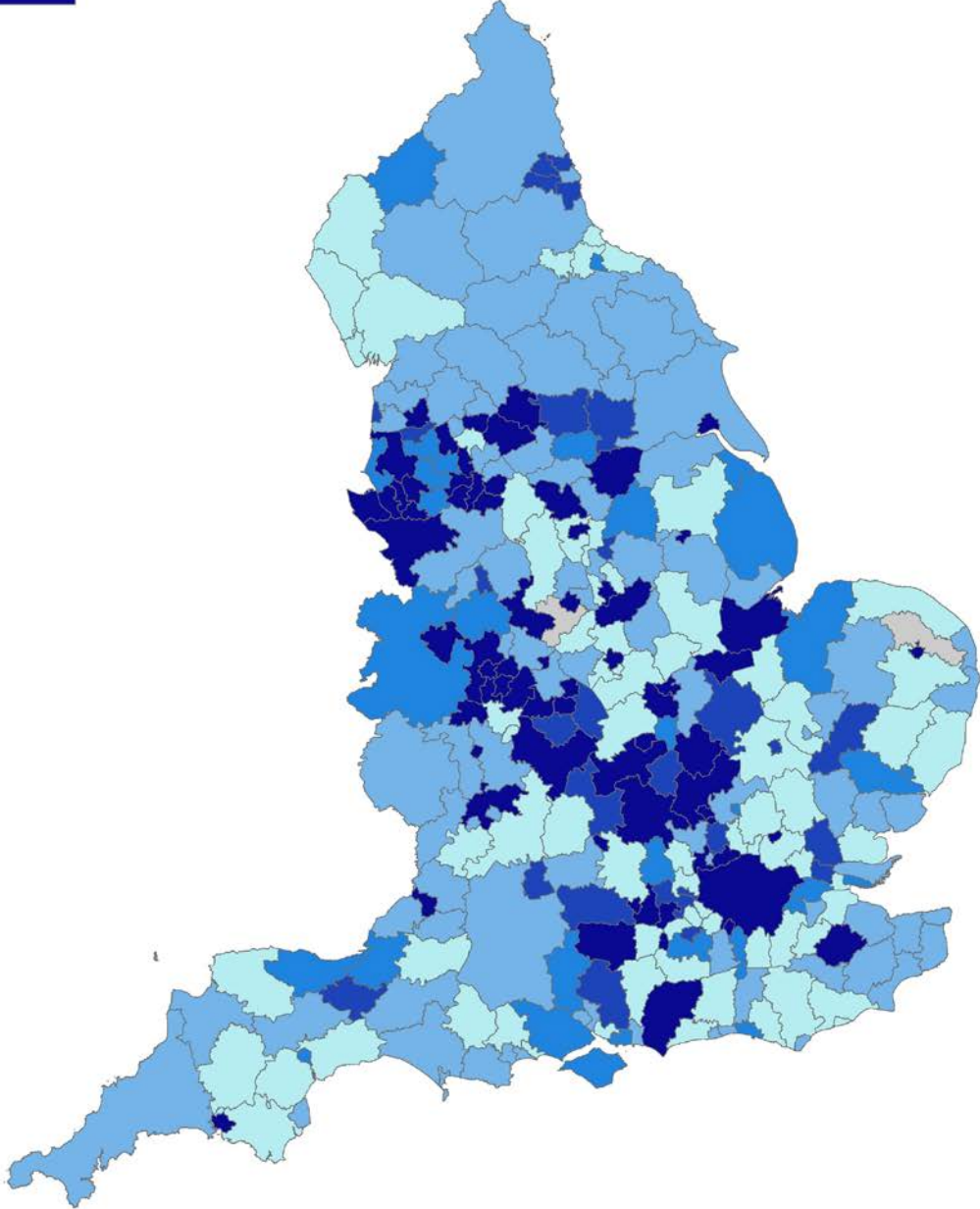
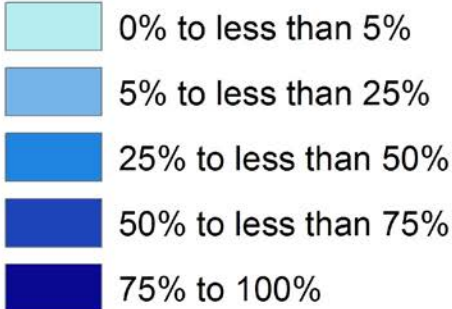
**Percentage of accessible PHVs**



<sup>10</sup> Information provide by licensing authorities - <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017>

Figure 5 - Wheelchair accessible taxis in England<sup>11</sup>

**Percentage of accessible taxis**



<sup>11</sup> Information provide by licensing authorities - <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017>

# 6. Working conditions

## Characteristics of employment in the sector

- 6.1 Traditionally a large proportion of taxi and PHV drivers have been self-employed. In the PHV sector, the 'traditional' working model is largely based on drivers paying a fee to the operator to gain a place on its list of drivers. Although this does not guarantee an income, drivers are able to decide whether to renew this relationship at the end of the period, or in the interim should they not receive what they consider sufficient fares.
- 6.2 This absence of guaranteed income is now being repeated in the 'gig economy' PHV model, the difference being that the fee(s) paid to the operator is usually taken as a percentage of each fare. The 'gig economy' was defined as 'the exchange of labour for money between individuals or companies via digital platforms that actively facilitate matching between providers and customers, on a short-term and payment by task basis' in the Department for Business, Energy and Industrial Strategy's [2018] research paper<sup>12</sup>.
- 6.3 However, even in the 'gig economy' PHV model, the relationship between the PHV operator and driver has changed very little from the 'traditional' model. Drivers still require an operator to act as the intermediary between them and the passenger. This means that PHV operators have control over the fare levels and the number of journeys a driver may receive.
- 6.4 The introduction of new technology in the private hire market has enabled new ways for the PHV operator to bring together drivers and passengers. This experience is not unique to this sector nor is the use of such technology unique to new entrants. There are many long-established companies that now use apps both in the PHV and taxi markets. At the same time I am aware that there are a number of ongoing legal disputes regarding the legal status of individuals that work in the PHV trade. While the reporting of these cases has focused on those involving app-based PHV operators the relationship between driver and operator appears similar in both the established and disruptive operator business models
- 6.5 On 7 February the Government's 'Good Work'<sup>13</sup> document, which was published in response to the 2017 'Good Work – The Taylor Review of Modern Working Practices'<sup>14</sup>, acknowledged Taylor's seven point plan was important to achieve the overarching ambition that all work in the UK should be decent and fair. The second of the points is focused on seeking clarity in the gig economy. It acknowledges that platform-based working offers opportunities for genuine two-way flexibility, and that these should be protected. However, it also recognises the importance of ensuring fairness both for those who work in this way and those who compete with them. It

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<sup>12</sup> <https://www.gov.uk/government/publications/gig-economy-research>

<sup>13</sup> <https://www.gov.uk/government/news/governments-response-to-the-taylor-review-of-modern-working-practices>

<sup>14</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf)



proposes that 'worker' status should be maintained but it should make it easier for individuals and businesses to distinguish 'workers' from those who are legitimately self-employed.

- 6.6 While it was not in the remit or expertise of the Group to decide the employment status of drivers, it did hear about and consider working practices in the sector. In particular, concerns were raised about the balance of risk and reward for PHV drivers and the effects this has on their welfare and, potentially for public safety.

## Working practices and earnings

- 6.7 The Group heard concerns that drivers, of both taxis and PHVs, are working longer hours to maintain existing incomes due to the increasing numbers of drivers. Of particular concern was the suggestion that drivers may be working excessively long periods without adequate breaks and the possible consequences of this for public safety.
- 6.8 All operators must meet their statutory obligations to drivers. Where drivers are 'workers' or employees, operators must ensure that none takes home less than they are entitled under National Living Wage legislation. Operators however should have a duty of care to support their drivers regardless of their employment status. Such an approach would obviously benefit drivers but it is also in operator's interests to support good working environments. It can support the retention of good drivers and lead to benefits for passengers; a driver who is content with their relationship with the operator may provide a better service and lead to repeat custom.

## The role of PHV licensing authorities

- 6.9 It is outside the expertise and scope of a local licensing authority to determine the employment status of drivers working with its licensed PHV operators. However, licensing authorities do have a responsibility to ensure that operators are 'fit and proper'. If a licensing authority has evidence of an operator persistently flouting employment law (for example, making no changes in response to an employment tribunal that is not being appealed, or can be appealed no further), that should legitimately be seen as casting doubt on whether that operator is "fit and proper", and would be worthy of thorough consideration.

### **Recommendation 33**

The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV operator.

## Working/driving hours and safety

- 6.10 As already noted, the Group heard the view from some stakeholders that erosion in drivers' earnings has resulting in drivers working for increased, and potentially excessive, hours to maintain their income. It is self-evident that, at some threshold,

tiredness and long hours of driving in any vehicle poses a risk to public safety through reduced alertness and response times. The Group did not see independent evidence of how many hours drivers are working however it heard from industry experts that the taxi and PHV industry is one which has historically lent itself to long working hours generally.

- 6.11 At present, taxi and PHV drivers are not subject to the Road Transport (Working Time) Regulations 2005<sup>15</sup>. Drivers can therefore choose the hours they work, and there are no rules that limit the number of hours they can work in a day or week.
- 6.12 That appears potentially problematic. A minibus driver has limits on how long they can work and when they must take rest breaks. There is no logical reason why a taxi or PHV driver (possibly the same person as the minibus driver) should be permitted to carry paying passengers in a car for an unlimited length of time. A taxi/PHV driver still needs to be aware of the road and environment around them and be able to respond in a timely way to changes.
- 6.13 However, there are many questions of detail which it has not been possible to consider in full for this report. The European Union rules on drivers' hours and working time are complex, as the scenarios detailed in the Department's guidance<sup>16</sup> illustrates. The appropriateness of these rules for the taxi and PHV sector is also open to debate; for example, limiting the number of driven hours may seem more appropriate than including times when a person is available and waiting for work. By its nature, the periods when taxis and PHVs are "available to answer calls to start work" (referred to as 'period of availability' in the guidance) would contribute to working hours but could not be considered as a rest period for the purposes of calculating driving hours according to the current rules.
- 6.14 The biggest challenge is how any limit(s) would be monitored and enforced; monitoring may require a tachograph system such as that used in buses and HGVs to be fitted to all taxis and PHVs. This may record the working/driving hours but consideration would need to be given to whether licensing authorities would monitor compliance or whether this would be done by the Traffic Commissioners (as for buses and HGVs). Despite these issues, this report favours driving time restrictions in principle if evidence indicates this is required on safety grounds and if a workable and proportionate way of doing so can be found. I think that Government should look at these issues in much greater detail than we reasonably can be done here.

#### **Recommendation 34**

Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry driver.

- 6.15 In the meantime, it is worthwhile noting again that local licensing authorities have a key role to play in maintaining safety. Drivers have a responsibility to themselves, their passengers and the public to ensure they are fit to drive, and this requires drivers to be open and honest with licensing authorities (as well as the DVLA) on any health issues that may mean they should not be driving. Where concerns about the operation of taxis and PHVs are brought to the attention of licensing authorities they could – and should – take immediate action against drivers and operators if there is

<sup>15</sup> <http://www.legislation.gov.uk/ukSI/2005/639/contents/made>

<sup>16</sup> <https://www.gov.uk/government/publications/eu-rules-on-drivers-hours-and-working-time>

any evidence of unsafe activity. A fit and proper operator should neither encourage nor condone excessive working or driving hours.

# Annex A- Comments by Group Members

**Helen Chapman**

**Director of Licensing, Regulation & Charging, Transport for London**

Transport for London (TfL) is the largest taxi and private hire licensing authority in England with almost a quarter of a million taxi and private hire licensees. In London, like many parts of the rest of the UK and globally, we have seen significant change in the taxi and private hire sector in recent years which we anticipate will continue to change in line with consumer needs.

Regulation is required to ensure the safety of passengers engaging with taxi and private hire services but it is right that this regulation is reviewed and modernised to reflect the modern world and the changing needs of passengers.

On behalf of the Mayor of London and TfL I am grateful for the opportunity to have formed part of the Department for Transport Working Group. It has been a worthwhile and rewarding experience to work as part of a group looking at regulatory practices to meet the needs of a changing world while remaining focussed on passenger safety and convenience. I would like to thank the Chair for his efforts in navigating a course through the often strongly held views of the Group and invited guests to produce a report of real substance with the safety of passengers at its heart.

We agree wholeheartedly with many of the recommendations put forward by the report which, if adopted, will deliver fundamental improvements in public safety and improvements in delivering a world class two tier taxi and private hire service. Many of these recommendations for primary legislative change have previously been raised by the Mayor and TfL and, indeed, many London based taxi and private hire stakeholders and we are delighted to have these views shared by the Chair of the Working Group.

Proposals within the report, in particular a solution to address the common practice referred to as cross border hiring, national minimum standards, national enforcement capabilities and statutory definitions to define the two tier system will produce a model of licensing and regulation that helps to enhance passenger safety and is not only fit for today but is also future-proofed and flexible to meet the changing demands of passengers.

We remain ready to support Government in implementing these recommendations, particularly those that require national legislation. As the largest licensing authority we can provide expert support and guidance to any panels that are formed to take forward these sensible recommendations.

We would like to comment on a number of recommendations from a TfL perspective:

**Recommendation 2** – we strongly support the introduction of national minimum standards and that these minimum standards should be set at a high level for safety.

We would like to thank the Chair for the common sense approach in recommending that licensing authorities can go further than the minimum, where required, to meet local needs. This is particularly important in London to retain the ability to set standards to meet air quality challenges and to continue to deliver the Knowledge of London for taxi drivers.

**Recommendation 5** – The two tier system has worked well in London for many years and London’s taxis are frequently voted the best in the world. Recommending a statutory definition for plying for hire and pre-booked services is sensible and long overdue. We would like to formally register our interest in joining the panel of regulatory experts to help draft appropriate definitions.

**Recommendation 8** – we welcome the Chair’s recommendation to allow local licensing authorities to set a cap on the number of taxi and private hire vehicles. The growing number of private hire vehicles in the capital is causing significant challenges in tackling congestion, air quality and appropriate parking controls. However, we note and strongly agree that there should be a proven need to set a cap by having a public interest test so monopolies cannot be formed. Once again, we remain ready to assist Government in defining an appropriate public interest test.

**Recommendation 11** – cross border hiring has been commonplace in the industry for many years but with the introduction of app based services in the industry and the expansion in the number of private hire drivers and vehicles, it requires an urgent solution so as not to undermine public safety and confidence in using private hire services. TfL explored this issue in detail and in February 2018 we published a detailed policy paper with proposals to address this issue. The paper was presented to the Working Group and we are delighted to see this is being taken forward as one of the key recommendations for change.

**Recommendations 25 and 29** we are fully supportive of these two proposals, however, we believe that an assessment is the more appropriate “minimum standard”. As a licensing authority our role is to assess the fitness of an applicant rather than to train them to be fit. However, for some authorities they may wish to provide this training above and beyond the minimum standard and this flexibility could be accommodated.

**Recommendation 30** - All taxis in London are Wheelchair Accessible and we recognise the need to enhance the provision for Wheelchair Accessible Vehicles in the private hire fleet. However, this recommendation, as written, will be difficult to achieve as vehicles are licensed separately to private hire operators and therefore it isn’t easy to introduce a minimum quota of wheelchair accessible vehicles.

We look forward to working with the Government to see these recommendations brought forward and ensure a modern, sustainable and two-tier taxi and private hire system for the future.

## **Rt Hon Frank Field MP**

### **Member of Parliament for Birkenhead**

Mohammed Abdel-Haq has written a superb report. It follows a thorough, comprehensive evidence-gathering process conducted by the Working Group under his chairmanship.

The House of Commons debate, in which the Minister announced the creation of the Working Group, centred on the pay, working conditions and living standards of taxi and private hire drivers.

This report addresses each of those important points. In doing so, it puts forward sound recommendations to restore the integrity of the National Living Wage – the cornerstone of the Government’s labour market policy – while ensuring adequate rates of pay and decent working conditions for drivers are put at the heart of what it means to be a ‘fit and proper’ operator.

The implementation of those recommendations, alongside many others in this report, will perform the crucial role of constructing minimum standards upon which the taxi and private hire industry can continue to thrive and innovate.

**Saskia Garner**

**Policy Officer, Personal Safety, the Suzy Lamplugh Trust**

Suzy Lamplugh Trust would like to commend the Chair on the completion of this final report and express our thanks for being included in the Task and Finish Group. We are delighted that most of the recommendations from our research report, *Steering Towards Safety in Taxi and Private Hire Licensing*, have been included in the report. We fully endorse the content of the report, with the exception of the comments below, which should not defer from our recognition of what has been achieved.

We have no position on **Recommendation 4** which recommends combining licensing areas. This is because we think the problems of inconsistency between neighbouring licensing authority policies would be resolved with the introduction of national minimum standards.

We would like to emphasise, in relation to **Recommendation 8**, the importance of the public interest test to determine whether a cap on numbers will increase or reduce personal safety. Our concern would be a situation where a cap resulted in demand out-weighting supply, which may put passengers at risk if they are unable to hire a licensed vehicle for their journey.

We do not support **Recommendation 11** as we do not believe there is a personal safety reason for limiting the start and end-point of a journey. We believe that the current practice of drivers choosing which licensing authority to obtain their licence from based on less stringent safety checks would be resolved by the introduction of national minimum standards.

In point 3.8 of the report we would request that the word ‘proportionate’ be defined, to ensure that the high standards set are in no way compromised by this stipulation.

In addition to what has been included in the report, Suzy Lamplugh Trust would like to recommend the addition of the following recommendations:

**Inclusion of taxi and PHV drivers as a regulated activity**

This would enable the offences under the Safeguarding Vulnerable Groups Act 2006, relating to a barred individual working or seeking to work in regulated activity, to apply.

**No deregulation of licensing**

Suzy Lamplugh Trust is also concerned about the proposed deregulation of licensing requirements for PHV drivers as set out in the 2016 Tourism Action Plan. This would effectively allow individuals to have access to members of the public including vulnerable adults and children in a private vehicle, without any prior safety checks. There should therefore be no de-regulation of existing laws that protect personal safety within taxi and PHV licensing.

**Prohibition of taxis or PHVs for use by non-taxi/PHV licensed drivers**

The prohibition of PHVs and taxis for personal use by non-PHV or taxi-licensed drivers must be introduced in London. This is to prevent drivers who do not hold a PHV or taxi licence, and who therefore have not been subject to safety checks, from picking up passengers who may assume they do hold a PHV or taxi licence as they are driving a licensed vehicle. While we are aware that PHVs should always be pre-booked, research carried out by the Suzy Lamplugh Trust in September 2017 showed that one in five people (21%) think that minicabs can be hailed on the street, and a quarter of people (26%) believe minicabs can take passengers who approach

them while parked. In addition, our research showed that over half (57%) have taken a taxi or minicab without asking to see the driver's ID badge first.



## Ellie Greenwood

### Senior Adviser (Regulation), Local Government Association

As the organisation representing licensing authorities, the Local Government Association (LGA) is pleased to have been part of this working group. The LGA is supportive of the vast majority of recommendations in this document, many of which we have been actively calling for over several years, and the objectives underpinning them. Encouragingly, it has been clear throughout the process of the working group how much consensus there is on key issues including updating the legislation, a strengthened and consistent approach to safeguarding standards and the need to address out of area working.

The LGA has worked closely with its members in recent years to support them to strengthen taxi and PHV licensing; producing guidance, running training events and, most recently, commissioning the development of the national register of licence refusals and revocations. The focus of all this work has been to ensure authorities are doing all that they can to safeguard people using taxis and PHVs.

In doing this, we have also consistently urged Government to take the much needed step of modernising outdated taxi and PHV legislation.

It is to be hoped that the report of an independent Chairman marks a turning point on this, and that Government now moves swiftly to take it forward and introduce new legislation. The report recognises that the taxi and PHV market has changed beyond recognition since the existing framework was introduced. As we said in our original submission to the working group, this has too often left councils and Transport for London on the front line of competing, costly legal challenges as to whether new business models fit within an obsolete framework. It is ultimately Government's responsibility to ensure we have a regulatory framework that is fit for purpose and protects people, and it must now do so.

The LGA and its members recognise and accept that as markets change and develop, so too regulation and regulators themselves must adapt. But we believe that local authorities must continue to be central to the licensing process and are pleased that the report recognises the importance of retaining local flexibility in taxi / PHV licensing, in terms of the ability to set local conditions (alongside national minimum standards) and the proposal for a power to set local caps.

There is a strong case to be made for greater collaboration across licensing authorities: on local policies, standards and enforcement of taxi and PHV licensing. The LGA urges all of its members to move forward on this cooperatively and quickly.

In some places, there may be also be a good case for reviewing licensing authority borders. But licensing authorities need to reflect local areas, economies and taxi / PHV markets, and will therefore look different in different places, as they do currently. Any process of revising licensing authority boundaries needs to be led from the bottom up, based on functional economic geography, and should in the first instance be encouraged as a voluntary approach.

It should also be linked to the fact that, beyond the licensing function, the map of local government is evolving. Combined authorities, metro mayors and proposed reorganisation in two tier areas may impact the way in which licensing authorities are structured and operate. These developments should provide the foundation for any changes to the map of licensing authorities, to help maintain the local democratic accountability that the report highlights, while also ensuring that licensing authorities do not become remote from the communities that they serve and seek to safeguard.

It is positive that the report envisages a voluntary approach on this issue, and recognises that Government can help to encourage this – for example, through funding for licensing authorities to develop new models and legislation enabling authorities to form shared licensing areas.

A particular issue for many local areas and licensing authorities has been the growth in out of area working over recent years. The LGA believes that drivers should operate predominantly in the areas where they are licensed, and welcomes the recognition of this issue in the report. We are also pleased that the report recognises the concerns that the LGA and its members have raised about the very limited oversight of drivers of PCVs. It is vital that this safeguarding issue is addressed quickly, building on the work the LGA is doing to develop the national register of refusals and revocations.

Finally, we would caution that while undoubtedly desirable, there may be practical and financial barriers to local licensing authorities introducing some of the report's recommendations, such as mandating minimum numbers of wheelchair accessible vehicles, or (in particular) mitigating additional costs faced by the trade (on zero emission or wheelchair accessible vehicles, or CCTV). However, we look forward to working with Government to explore the options available in these areas.

## Dr Michael Grenfell

### Executive Director, Enforcement, Competition and Markets Authority

The Competition and Markets Authority has a statutory duty to promote competition for the benefit of consumers. This draws on the insight that, generally, consumers benefit from choice and also from the effect of competitive pressures on suppliers of services and goods, giving those suppliers an incentive to provide their services and goods to a high standard of quality, at a competitive price and with a desire to innovate; where there is effective competition, that is the only way that suppliers can win and retain business.

Applying this to the taxi and private hire vehicle (PHV) sector, competition provides operators with the incentive to give passengers value for money, by way of higher service standards, affordable fares and innovativeness in service provision.

The CMA recognises the need for robust regulation to protect passengers where market competition cannot wholly do this – for example, as regards safety standards. But we consider that such regulation should be proportionate and should be no more onerous than is necessary, with the concern that excessive or unnecessary regulation can create barriers to competition and new market entry, which would be counterproductive for the interests of passengers, depriving them of the benefits of competition (described above) as regards quality standards, price and innovation.

The benefit of price competition – affordability of taxi and cab fares for millions of ordinary people, and particularly the less affluent – should not be regarded as merely a ‘nice-to-have’ add-on. It is extremely important, including for some of the most vulnerable citizens in our society. It is also relevant to safety considerations; if people are unable to afford a taxi or cab fare (for example, after an evening out), they might well choose ways of transport that are considerably less safe – such as unlicensed vehicles, or themselves driving under the influence of alcohol – endangering themselves and others.

Having regard to these considerations, representing the CMA I have sought to engage with the serious work of the Group in what I hope has been in a constructive and cooperative spirit. As the Chairman says in his Foreword, there have been *‘strongly held and sometimes polar opposite opinions’* among members of the Group, and this is surely almost inevitable given the diverse range of interests and perspectives represented on the Group. It has been the Chairman’s task to draw useful insights from the range of expertise in the Group and produce a series of practical recommendations – designed to improve the sector and be workable – even if there is not complete consensus or unanimity about these.

My view is that the Chairman has been very successful in this.

I am happy to endorse the vast majority of the recommendations.

The only significant qualifications that I would wish to put on record are:

- As regards **Recommendation 8**, I am concerned that a numerical cap on the number of providers of taxi/PHV services risks having the effect of artificially and unnecessarily constraining competition, to the detriment of passengers – depriving them of the best prospect of high service standards, value for money and innovation in service provision.

I welcome the report’s recognition, in paragraph 3.40, of the risks of this and the consequent need to carry out *‘a clear, well-evidenced and considered public interest test before a number of restrictions can be applied’*.

Nevertheless, I am not convinced that the case for any kind of cap or numbers has been adequately made out.

In any event, I would urge that, even if there were to be such a cap, the factors taken into account in a public interest test should at least include, in addition to those listed in paragraph 3.41:

*‘the effects on competition, including on service standards and affordability of fares, bearing in mind that the absence of affordable fares can induce people to travel by less safe modes of transport’.*

- As regards **Recommendation 11**, I am concerned that limiting taxi and PHV operations to the area of pick-up or destination where the provider is licensed narrows the choice available to passengers and weakens competitive pressures, to the potential detriment of passengers (as described above).

Nevertheless, I fully recognise the concern that this recommendation is designed to address – namely, the risk of ‘forum shopping’ by providers, undermining regulatory safeguards applied by licensing authorities.

The report proposes some mitigating measures, specifically:

- Larger licensing areas (as proposed in Recommendation 4); I think that giving effect to this is a necessary precondition to Recommendation 11.
- The notion that operators should not be restricted from applying for and holding licences with multiple authorities, subject to meeting both national standards and any additional requirements imposed by the relevant licensing authority; in my view, this will be effective so long as the cost of multiple licensing is not so onerous as to represent a barrier to operators taking it up.

Finally, I should like to record that, in spite of the differences of opinion between members of the Group, it has been a huge privilege to work alongside such talented and well-informed individuals, who have brought their particular expertise and skills to bear on these difficult issues, and have consistently done so with a view to advancing the public interest, improving the sector and protecting the position of passengers and drivers.

I am in addition impressed by, and grateful for, the secretariat of officials from the Department for Transport who provided support and advice to the Group with admirable efficiency and professionalism.

As for our Chairman, Professor Mohammed Abdel-Haq, he had, as I have noted, the unenviable task of bringing together these disparate perspectives to form a coherent and workable set of recommendations; he is to be warmly commended on his achievement in doing so, and on conducting the Group’s meetings throughout in a spirit of courtesy and good humour. It has been an honour to be a member of his Group.

## Anne Main MP

### Member of Parliament for St Albans

It has been a pleasure to serve on the working group set up to advise and contribute to debate on the future of Taxi and Private Hire Vehicle licensing. The group has worked on this issue for a considerable period of time and there has been healthy debate throughout the process.

It is a considerable achievement that Professor Mohammed Abdel-Haq has been able to compile a report that has received backing from the many different viewpoints represented on the group.

Whilst I endorse almost all of the recommendations made in the report, I do want to share my concerns about three of the more contentious issues that we have not been able to find consensus on during our meetings;

#### **Recommendation 8**

I am concerned with the proposed power for local authorities to cap taxi and PHV vehicle licences. Whilst I appreciate that a public interest test will mitigate the potential issues with this proposal, I am still not convinced that it will benefit public safety or competition in the industry.

One of the issues that this seeks to address is ‘forum shopping’ by drivers who seek PHV licences from those authorities that are seen as easier, quicker and cheaper to get a licence from. The structure of the report suggests a significant strengthening of the licensing requirements across all local authority areas which I feel reduces any need for capping powers.

Combined with a more effective method of reducing drivers licensing in one area and working predominately in another, along with considerably higher licensing standards for all authority areas then I do not believe there is a requirement for a cap. Which I believe would reduce competition and do little to protect passenger safety.

#### **Recommendation 11**

I am still not convinced, based on evidence we have heard and read from many different stakeholder groups, that this is the best way to effectively license taxi and PHVs going forward. Although many firms will be totally unaffected by this, I believe there will be considerable implications for smaller PHV companies who regularly operate across several invisible local authority boundaries.

The aim of this recommendation is to prevent drivers being licensed in one part of the country from working predominately somewhere else. I had hoped we would have found a more creative way of reducing this problem whilst still retaining local autonomy, as I fear this recommendation is overly burdensome and is not a practical solution that fits in with passengers’ demands in the modern PHV industry.

I hope that the government will consult on this particular issue widely and seek to find a better and more creative solution that will protect the integrity of local authority licensing and retain healthy competition across boundaries that passengers have come to expect.

#### **Recommendation 17**

I do not believe the case has been made for the mandatory enforcement of CCTV in all taxis and PHVs. I support the aims of this recommendation, CCTV will be helpful for the prevention and conviction of crime involving taxi and PHV journeys.

However, I believe that local authorities should have the autonomy to decide on whether or not mandatory CCTV is required for the area in which they cover. I also remain concerned about the financial implications for drivers and small PHV companies who will bear the cost for installation, maintenance and recording of the footage in a data compliant manner.

I do believe the case has been made for drivers or companies choosing to have CCTV. This could form part of proposals for drivers to choose to license themselves at a higher level for passenger safety. A suggestion would be that if drivers choose to have CCTV installed, and license themselves at a higher level, this could allow them to operate across different LA boundaries other than the one they are licensed in.

I hope the government give careful consideration to the recommendations in this report. I believe there is a need to modernise the legislation governing the taxi and PHV industry and there are many sound proposals within this report that should be acted upon.

I would like to register my thanks to Professor Abdel-Haq and the team at the Department for Transport who have worked very hard to pull together this excellent report. I am also grateful to the other working group members who have contributed to a lively and informed debate.

**Steve McNamara**

**General Secretary, Licensed Taxi Drivers' Association**

The Licensed Taxi Drivers' Association agrees with the need to stop some drivers, particularly PHV drivers working through apps, from working excessively. However, we are concerned that the proposed measures set out in this report, especially the installation of tachographs, are neither practical nor proportionate and will prove to be very costly for both regulators and drivers.

For those PHV drivers who use apps for all their business it would be relatively easy to introduce restrictions on how long they are logged into the app. However, it would be much harder to regulate the hours of taxi drivers. The installation of tachographs has previously been discussed to try and control the hours of taxi drivers but each time the relevant regulator has deemed it an excessive measure, as well as intrusive and costly.

The best way to tackle excessive driving hours is to remove the need for drivers to work these hours in order to make ends meet. The LTDA believes that if all PHV operators paid their drivers at least the national minimum wage the hours those drivers feel the need to work would fall substantially.

**Mick Rix**

**National Officer for Transport and Distribution, GMB union**

The report attempts to address in a number of key areas enhanced public safety provisions with national minimum standards.

The issues around cross border working, plying for hire are issues which have blighted the trade for a number of years. The report recommendations are serious attempt to address these concerns and tackle head on what is a serious problem.

The recommendations on workers rights being placed into license conditions for operators if adopted will be another nail in the coffin for those who seek to exploit drivers for their own gain.

GMB urges the report recommendations to be adopted by our law makers and that legislation should be brought forward as quickly as possible.

Finally I would like to thank our Chair, who along with his good humour and humility, kept everyone focussed. It was a pleasure to work with him.



**Donna Short**

**Director, National Private Hire and Taxi Association**

Firstly I would like to echo the sentiments of every member of this group and commend the Chair of the group, Professor Mohammed Abdel-Haq, for a very comprehensive, detailed and easy to read report to the Minister. It is my belief that the report reflects accurately and succinctly the thoughts and views of the majority of the group's members on most of the points raised during the meetings held over the past few months.

This has been an arduous task, given the complexity of existing taxi and private hire legislation – and its archaic and user-unfriendly state, which was the prime motivation for Transport Minister John Hayes MP to have set up the group in the first place. In that regard I would also wish to thank the officers of the Department for Transport for their administrative support and input into the production of the report, and indeed the entire process of hosting and overseeing all the group meetings.

There is no need for me to put down each recommendation and comment on all of them, as in reality I am in agreement with most of the recommendations. What is most important is for the Minister to consider each of the recommendations' aims and goals, and whether they would pass the test of "Is this really what Parliament intends if/when they revise the legislation?"

This presupposes that the current Minister will approve and "sign off" the report at the earliest possible opportunity, so that Government can start work on those recommendations that may be activated immediately without having to depend upon new primary legislation - which we have all been advised would not be feasible for this industry during the current session of Parliament.

May I give a huge personal thumbs-up to **Recommendations 17/18** (CCTV in all licensed vehicles, with a funding boost; the debate is as to voluntary or mandatory) and Recommendation 26 (the training of council officers and emphatically, Councillors on licensing committees).

There are some recommendations however which will certainly be more controversial than others; none more so than **Recommendation 11** concerning all journeys – both taxi and private hire – having to start and/or finish within the area in which all three elements (driver, vehicle and operator) are licensed.

Given that there would be concessions made for certain segments of the industry, this only slightly eases the blow of what would otherwise cause a serious restraint of trade. In my opinion such a fundamental ring-fencing of licensing restriction would stifle competition, stunt the growth of some of the larger companies and conglomerates, and possibly put some of the smaller private hire operations out of business.

In practical terms, hundreds of operations that depend almost entirely on airport transfers (these operations are not exclusively chauffeur/executive, but often cater for a mix of upmarket and "ordinary" private hire passengers), would be severely hampered in particular, as often their drivers are dispatched to pick up or drop off regular customers at any of the major airports from, say, the driver's own home without having set foot in his licensing area during that journey.

Above all, there could be severe risks posed to public safety, as the recommended ABBA [that all taxi and PHV journeys should start and/or end within the area for

which the driver, vehicle and operator are licensed] restriction limits customer choice to the extent that some passengers may end up stranded, often late at night, merely because their potential transport has the wrong plate on the vehicle. This cannot be right, nor in the best interests of the travelling public.

We understand that the practice of many drivers and operators at the present time of working entirely remotely from their own licensing district is not what Parliament intended in any existing legislation; nor is it safe for the public in all its ramifications; nor is it anything but damaging to bona fide firms that “do it right”. There must be some way to curtail this pandemic abuse of licensing practice; however I do not believe that Recommendation 11 is the way to accomplish this.

Unfortunately any potential alternatives are scuppered by two recent pieces of case law: that of **Skyline Taxis v Milton Keynes Council** from November 2017 (where the necessity of a “physical presence” of a private hire operator base in each district was discarded), and **Knowsley MBC v Delta and Uber** from March 2018 (which rules out the concept of “intended use policy” for private hire). This entire topic requires intense investigation.

The other recommendation which seems to have caused a great deal of controversy is **Recommendation 8**: to set a cap on the number of private hire vehicles. At present there are entirely too many licensed vehicles now in operation, and this on the surface has caused severe competition, longer drivers’ hours, congestion and air quality issues.

However, it is my view that a cap on private hire numbers at this time is a “closing the stable door after the horse has bolted” scenario: it is too late to have the desired effect of correcting the above problems, as numbers have already skyrocketed and the vehicles that are currently licensed cannot be taken off the road purely on numerical grounds.

There is still a perceived need for more drivers and vehicles in some districts, whilst there is an over-supply in others. To limit PHV numbers across the board would possibly endanger passengers in those areas where supply is short, to the extent that those passengers could seek transport in unlicensed vehicles, drive their own vehicle when over the alcohol limit, or even attempt to walk to their destination and put themselves at risk on the street during night time hours.

If national standards are brought in at the level whereby (a) licence-shopping outside the district becomes less attractive; (b) reciprocal implementation of authority by officers allows for stricter enforcement across borders; and (c) the standards for both drivers and vehicles preclude volumes of casual licensing of substandard vehicles, these factors in themselves would limit further numbers of licensed vehicles flooding the market.

It is my belief that market forces will prevail without an artificial ceiling; supply and demand of PHVs must be allowed to continue in the name of fair competition and public safety.

As for driver training (**Recommendation 25**), this is an area that needs serious consideration: there is no longer a Sector Skills Council to sanction and implement future training programmes; there is no longer a current structure of updated BTEC (underpinning knowledge) and NVQ (assessment) that could be applied nationally; and crucially there is little funding in place to assist applicants to gain this very important and necessary training. The situation needs careful examination, new funding sources and constructive reform as soon as possible.

Within **Recommendation 30** (wheelchair accessible vehicle provision) the most important criterion must be clarity: it must be stressed that the Government position favours a mixed fleet of both saloon and wheelchair taxis. If it is not possible to have a set percentage of WAVs agreed across the entire country, then there must be another way to provide such provision without making WAVs compulsory across the entire taxi fleet in any one district. This policy is discriminatory against ambulant disabled passengers: arthritics, stroke victims, partially blind passengers, as they often have great difficulty getting into and out of WAVs.

There are perceived practical difficulties in implementing **Recommendation 34**, the restriction of taxi and PHV drivers' hours. Government will have to come up with an alternative to tachographs in every licensed vehicle, which is the current method of tracking drivers' hours in the bus, coach and logistics industries.

My only concern in respect of a possible omission within the recommendations is any mention of medical standards for drivers. I appreciate that this may fall under the category of "fit and proper" (which still needs defining); however in our experience the DVLA Group 2 criteria for medical fitness to drive are not being adhered to, either in terms of the exam itself or its correct frequency of intervals, by far too many licensing authorities. This poses a serious risk to the travelling public, and should be addressed with some urgency.

The motto, credo and remit of this Association from its inception has always been "to raise standards in the trade, both actual and as perceived by the public". The view of members of the group, and indeed the report itself, mirror(s) those desires and sentiments, and it has been an honour and a privilege for me to have been chosen and to have taken part in the group meetings and discussions.

Time is of the essence if this industry is to be rescued from its current state of chaotic lack of coherence and direction. I cannot emphasise strongly enough that this report encapsulates and addresses in great detail and insight the difficulties currently at hand, and – unlike previous attempts at reforming the industry - it must be acted upon with alacrity and determination.

## Steve Wright MBE

### Chairman, Licensed Private Hire Car Association

The views below are based on known policy and positions of LPHCA members alongside the discretionary judgement I am constitutionally afforded as LPHCA Chairman.

Given there were so many different and interested parties providing input, I feel the quality of the Report and the proposal outcomes, are in the main excellent and I'd like to congratulate and commend the Chair, DfT Officials and Group Colleagues for the hard work, professionalism and spirit of collaboration, widely shown.

Inevitably there are a few areas of non-agreement and unless referenced below, the LPHCA fully endorses the proposals and more generally the superb quality of the report.

#### **Recommendation 8**

We cannot agree with recommendation 8 because it is, in our view, anti-competitive, protectionist, un-environmentally friendly and safety compromising, furthermore it would be extremely costly, as well as difficult to enforce and regulate.

We do not accept that the proposal should help authorities to solve challenges around congestion, air quality and parking, which can be resolved outside of Taxi & PHV licensing. Nor do we accept that it would ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions, which again is a matter that in our view is wholly outside of Taxi & PHV licensing.

This proposal, if adopted, could bring about shortage of supply and make it very difficult for hire and replacement vehicle companies to operate. This in turn could leave consumers at risk of being stranded because of volatile and unpredictable demand factors, such as the weather and seasonal demands (e.g. during, Diwali, Christmas & New Year periods).

This proposal also lacks any tangible safety benefits and in our view, it would compromise rather than enhance safety.

#### **Recommendation 11**

We cannot agree with recommendation 11 because it is anti-competitive, protectionist, un-environmentally friendly and safety compromising, furthermore it would be extremely costly, as well as difficult to enforce and regulate. It would also increase dead mileage, make the industry far less efficient, increase costs and potentially lead to demand outstripping supply, which has serious safety implications.

The notion that Operators could hold multiple licenses is unsound, unnecessary and cost-prohibitive. Some operators would need to hold scores and possibly hundreds of licenses to operate as they do now, the cost and administrative burden would take the Private Hire Industry into an area that we believe has no place in a modern economy.

This proposal, in our view, is also out of kilter with the Law Commission's recommendations, government policy and fair, progressive competition. It will be, without doubt, vehemently opposed by the Private Hire Industry and will badly let down consumers if taken forward. National standards, compliance and enforcement proposed by the Chair elsewhere will eradicate many of the current inhibiting factors

on Local Authorities to deliver 'fit for purpose' regulations, without such inhibitive measures.

This proposal looks to be borne out of so called 'Cross-Border hiring', something which has always been undertaken by PHVs without problem until the arrival of large 'App-Only' companies whose drivers show themselves publicly outside of the area they are licensed in.

The proposal, as drafted, would not solve 'Out of area working' as the entities that have caused this anomaly, will simply licence in every licensing authority, which will be beyond the scope of the vast majority of PHV operators in England.

A viable solution may be to only allow pre-booked and corporate journeys to be undertaken out of area, with PHV drivers only able to show their position / availability in the area they are licensed in.

This could be enshrined in the future definition of Plying for Hire recommended elsewhere, by establishing a clear distinction between Public and Private Hiring of PHV's and Taxis.

The notion that specialist services such as chauffeur and disability transport services could continue to operate cross border under exemption is problematic as defining what a chauffeur is would be difficult.

Nearly every PHV carries elderly, disabled, special needs and vulnerable passengers and many PHVs are not specialist vehicles, but nevertheless they are the preferred mode of door-to-door transport for such passengers. This proposal would have a negative impact on such passengers.

We therefore cannot endorse the proposal and point out there are far better ways to deal with 'cross-border' / 'out of area operation'. We believe safety would in fact, be compromised, rather than improved.

### **Recommendation 12**

We agree that Licensing Authorities should ensure that their licensing administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

We must however ensure that such fees are proportionate, distributed appropriately and set at reasonable levels. Such fees should also be applicable to taxi & PHV drivers and operators and not have commercially inhibiting factors in the fees structure.

### **Recommendation 17**

We accept that CCTV has a great role to play regarding both passengers and driver safety. We have undertaken research with consumers, operators and drivers on both the merits and issues that CCTV can bring.

We accept 'in principle' the spirit of what is being sought by way of safety, but personal privacy, uncertainty of costs, who has access to the data and how this would affect entities that provide hire-cars for drivers when either broken down or following an accident are significant issues.

We therefore cannot agree with mandating CCTV across the board and would like government to undertake a full-blown regulatory impact assessment and have considerable dialogue with trade representatives and others, so we can get the right balance for CCTV to go forward in a viable way.

## **Recommendation 28**

We agree that Licensing Authorities must require that all drivers are able to communicate in English orally and in writing to a standard that is required to fulfil their duties, including in emergency and other challenging situations.

A problem area however comes within any written element, which in our view in London has been set way above the standard that is required for a PHV driver to fulfil their duties. We would like a fixed national standard of English to be in place that enshrines an oral test, the ability to plan a route and use an atlas & satnav. Good tests are already available and in use by some Local Authorities.

The level needed for written English is low because the only writing that most taxi or PHV drivers will need to do in the course of work is to write out a receipt. Since the introduction of English Language testing in London, there have been legal challenges, trade protests, heavily signed petitions, alongside the changing of requirements and implementation dates.

Proposed exemptions have been dropped and a great deal of hardship, unnecessary stress and cost has also been the consequence, alongside serious unresolved issues for dyslexic drivers. The British Dyslexia Association are in contact with TfL and the LPHCA on very real problems that the written element is causing.

TfL's current English Language requirements has caused the Mayor of London to have two meetings with Trade Representatives to date. The requirement date has been moved back several times (now to 30th April 2019) and the Mayor has stated that further dialogue could be needed in 2019 to get things right.

As well as the above, taxi drivers in London are exempted, whilst PHV drivers are not, which is something we are looking at on the basis of equality and discrimination. It is also very questionable why someone who has been working in the PHV industry for many years needs to be retrospectively tested for their English.

It should be remembered that every PHV driver in London has passed a driving test and for many years all PHV drivers have undertaken a TfL approved topographical assessment.

We propose that an agreed pan-England standard of assessment is needed, rather than every Local Authority doing its own thing, at differing costs and standards.

## **Recommendation 30**

We are very supportive of measures that improve disabled vehicle provision but around 90% of disabled passengers are not wheelchair bound and rely on normal PHVs for their transport, with many actually preferring non-wheelchair accessible vehicles.

Mandating fleet quotas would bring considerable problems for PHV Operators as well as many drivers who are majoritively self-employed and now move between fleets. We would therefore like government to facilitate dialogue with PHV trade representatives and disabled groups like the Disabled Persons Transport Advisory Committee (DPTAC) to discuss how Private Hire can play a greater role in providing appropriate vehicles.

## **SUMMARY**

The LPHCA believes that following the Law Commission Review and Professor Mohammed Abdel-Haq's excellent report, a number of these recommendations could

be brought in fairly quickly as there appears to be wide ranging consensus on key areas.

We also feel that for certain recommendations like English Language, enhanced DBS and barred lists checks, use of the National Anti-Fraud Network (NAFN) database, etc., that an absolute standard should be put in place. This would ensure that inconsistency, which has traditionally been the root cause of licensing problems, is eradicated.

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Statutory guidance

# Statutory taxi and private hire vehicle standards

Updated 25 November 2022

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# Introduction

There is evidence to support the view that taxis and private hire vehicles (PHV) are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers – [data from Greater Manchester](https://www.whatdotheyknow.com/request/sex_attacks_2) ([https://www.whatdotheyknow.com/request/sex\\_attacks\\_2](https://www.whatdotheyknow.com/request/sex_attacks_2)) and [data from Merseyside](https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178) ([https://www.whatdotheyknow.com/request/taxi\\_private\\_hire\\_related\\_rapes#incoming-286178](https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178)) 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](https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexual_offencesinenglandandwales/yearendingmarch2017#main-points) ([https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexual\\_offencesinenglandandwales/yearendingmarch2017#main-points](https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexual_offencesinenglandandwales/yearendingmarch2017#main-points)).

The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, 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](http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted) (<http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted>), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):

- has needs for care and support (whether or not the authority is meeting any of those needs)
- is experiencing, or is at risk of, abuse or neglect
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it

Whilst the focus of the statutory taxi and private hire vehicle standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. The Department for Transport (DfT) therefore expects these recommendations to be implemented and maintained unless there is a compelling local reason not to.

It should be noted that as policing and criminal justice is not a devolved matter, the statutory taxi and private hire vehicle standards issued under the Policing

and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

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 \(https://www.gov.uk/government/publications/working-together-to-safeguard-children--2\)](https://www.gov.uk/government/publications/working-together-to-safeguard-children--2) statutory guidance.

The statutory taxi and private hire vehicle standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the DfT best practice guidance. 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).

The standards in this document replace relevant sections of the best practice guidance issued by the department in 2010. Where there is a conflict between the statutory taxi and private hire vehicle standards and the best practice guidance the department issues on taxi and private hire vehicle licensing, the standards in this document take precedence.

### **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 document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a triple licensing lock, that is, the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence.

The term private hire vehicle is used throughout this document to refer to all such vehicles.

# Consideration of the statutory taxi and private hire vehicle standards

The past failings of licensing regimes must never be repeated. The department has carefully considered the measures contained in the statutory taxi and private hire vehicle standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.

The government set out in the [Modern crime prevention strategy](https://www.gov.uk/government/publications/modern-crime-prevention-strategy) (<https://www.gov.uk/government/publications/modern-crime-prevention-strategy>) 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. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measures to take when using these services will protect all passengers. More information can be found in the [Staying safe: guidance for passengers](#).

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 private hire vehicle licensing regimes. Both the [Jay report](https://www.gov.uk/government/publications/iicsa-report-of-the-independent-inquiry-into-child-sexual-abuse) (<https://www.gov.uk/government/publications/iicsa-report-of-the-independent-inquiry-into-child-sexual-abuse>) and [Casey report](https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council) (<https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>) on CSAE highlighted examples of taxi/private hire vehicle 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.

The Casey report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The DfT 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 setting of the standards.

This document is published by the Secretary of State for Transport under section 177(1) of the [Policing and Crime Act 2017](https://www.legislation.gov.uk/ukpga/2017/3/section/177/enacted) (<https://www.legislation.gov.uk/ukpga/2017/3/section/177/enacted>) following consultation in accordance with section 177(5).

The document sets out a framework of policies that, under section 177(4), licensing authorities must have regard to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. Having regard is more than having a cursory glance at a document before arriving at a preconceived conclusion.

Having regard to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated. It is not a question of box ticking, the standards must be considered rigorously and with an open mind.

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 the statutory taxi and private hire vehicle standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in statutory taxi and private hire vehicle standards, and the policies and delivery plans that stem from these. The department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

The statutory taxi and private hire vehicle standards 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.

## **Administering the licensing regime**

### **Licensing policies**

The department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a fit and proper person test, licence conditions and vehicle standards.

When formulating a taxi and private hire vehicle 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 on safeguarding failings](https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council) (<https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>), published in February 2015.

“ 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.”

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.”

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 private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is 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.

One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. Licensing authorities should review their licensing policies every 5 years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.

## **Duration of licenses**

A previous argument against issuing licences for more than a year 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 for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common law police disclosure powers to advise them.

The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at 3 years for taxi and private hire vehicle drivers and 5 years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case. If a licensee has requested one, or where required (for example, 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 – they should not be issued on a probationary basis.

## Whistleblowing

It is in the application of licensing authority's 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. Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.

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.

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 private hire vehicle) passengers in the manner in which licensing issues were addressed. We are pleased to note that the [South Ribble taxi licensing report \(https://cdn.ps.emap.com/wp-content/uploads/sites/2/2016/09/South-Ribble-taxi-licensing-report.pdf\)](https://cdn.ps.emap.com/wp-content/uploads/sites/2/2016/09/South-Ribble-taxi-licensing-report.pdf) concludes:

“ 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.”

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.

## The Public Interest Disclosure Act 1998

<https://www.legislation.gov.uk/ukpga/1998/23/contents>) (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. More information is available online for [Employees, known as whistleblowing](https://www.gov.uk/whistleblowing) (<https://www.gov.uk/whistleblowing>) and the [Guide for employers on whistleblowing](https://www.gov.uk/government/publications/whistleblowing-guidance-and-code-of-practice-for-employers) (<https://www.gov.uk/government/publications/whistleblowing-guidance-and-code-of-practice-for-employers>).

## **Consultation at the local level**

Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle 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 (such as 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 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.

Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas – and licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings – this should be adopted by all authorities.

## **Changing licensing policy and requirements**

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 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.

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

## **Gathering and sharing information**

Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

## **The Disclosure and Barring Service**

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.

Enhanced certificates with a 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. Spent convictions and cautions are disclosed on standard and enhanced certificates according to

rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. See the [Guidance for disclosure rules](https://www.gov.uk/government/collections/dbs-filtering-guidance) (<https://www.gov.uk/government/collections/dbs-filtering-guidance>), and those offences which will always be disclosed for more. As well as convictions and cautions, an 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 [Statutory disclosure guidance](https://www.gov.uk/government/publications/statutory-disclosure-guidance) (<https://www.gov.uk/government/publications/statutory-disclosure-guidance>) issued by the Home Office when considering disclosure. See the ([Annex – Disclosure and Barring Service information](#)) summary for the information provided at each level of DBS checks for more.

It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a right of access to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

## **The DBS update service**

Subscription to the DBS update service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.

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 type of information – 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 9 months.

Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a multiple status check facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of status checks simultaneously. See the [MSCF](#)

[checking guide \(https://www.gov.uk/government/publications/dbs-update-service-multiple-status-checking-guide\)](https://www.gov.uk/government/publications/dbs-update-service-multiple-status-checking-guide) for more.

Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

## **Common Law Police Disclosure**

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 private hire vehicle drivers. 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.

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.

This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.

## **Licensee self-reporting**

Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of 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. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions

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

## Referrals to the DBS and the police

In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further [Guidance on the referral duty for local authorities as regulated activity providers](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) (<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>) has been provided by DBS.

The department recommends that licensing authorities should make a referral to 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 [DBS harm test](https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#what-is-the-harm-test) (<https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs#what-is-the-harm-test>)
- received a caution or conviction for a relevant offence
- the person they are referring is, has or might in future be working in regulated activity

If the above conditions are satisfied, DBS may consider it appropriate for the person to be added to a barred list.

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. See the [Making barring referrals to the DBS](https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs) (<https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>) for more.

## Working with the police

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, action taken by the licensing authority as a result of information received should be 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.

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.

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.

## **Sharing licensing information with other licensing authorities**

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 and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.

The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 (the 2022 Act), requires all licensing authorities in England to use the National Register for Revocations, Refusals and Suspensions (NR3S) to record, and search for, driver refusals, suspensions and revocations. Under the Act, all licensing authorities in England must also report specified concerns about drivers to the authority that issued that driver's licence. An English licensing authority must consider suspending or revoking a driver's licence based on the concerns reported to them by another GB licensing authority. DfT has published [Statutory guidance to support taxi and private hire vehicle licensing authorities in England in complying with this legislation](https://www.gov.uk/government/publications/taxis-and-private-hire-vehicles-safeguarding-and-road-safety-act-2022) (<https://www.gov.uk/government/publications/taxis-and-private-hire-vehicles-safeguarding-and-road-safety-act-2022>) and all English licensing authorities must have regard to this.

The 2022 Act does not place any obligations on Welsh licensing authorities but every licensing authority in Wales is able to search the database and make

entries to it. Welsh licensing authorities should use tools like the NR3S to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants or licensees. Welsh licensing authorities should follow the same principles when using the NR3S and sharing information with other licensing authorities as set out in the statutory guidance for English licensing authorities. Where a Welsh licensing authority requests information from another licensing authority (whether in England or Wales) as a result of using the NR3S to support their decision-making for an application or renewal, the licensing authority holding the information should consider whether to disclose this information to the Welsh licensing authority in line with its obligations under data protection legislation.

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 private hire vehicle 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 (ICO) has published [Guidance to assist organisations to fully understand their obligations and suggest good practice \(https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/lawful-basis/a-guide-to-lawful-basis/\)](https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/lawful-basis/a-guide-to-lawful-basis/) .

For these processes to be effective, all licensing authorities must keep a complete and accurate record of the reasons for refusal, suspension or revocation of a licence, in order that this can be shared if requested and appropriate to do so. The 2022 Act requires licensing authorities in England to keep a record of any relevant information related to decisions recorded on the NR3S database for 11 years from the date of decision. Whilst this requirement does not apply to licensing authorities in Wales, those authorities should retain the relevant records for at least 11 years.

Should a licensing authority receive information that a licence holder did not disclose relevant information, for example by checking the NR3S database, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains fit and proper.

## **Multi-agency safeguarding hub (MASH)**

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) should operate on 3 common principles:

- information sharing

- joint decision making
- coordinated intervention.

The Home Office report on [Multi agency working and information sharing](https://www.gov.uk/government/publications/multi-agency-working-and-information-sharing-project) (<https://www.gov.uk/government/publications/multi-agency-working-and-information-sharing-project>) 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](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](https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/07/If_only_someone_had_listened.pdf)) 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.

All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (that is, the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

## **Complaints against licensees**

Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the balance of probabilities assessment that licensing authorities must take.

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.

To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make a complaint to the authority should be displayed in all 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 private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

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.

In terms of investigating complaints 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 the [In-vehicle visual and audio recording – CCTV](#) section.

## Overseas convictions

The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. 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 – the same applies when an applicant has previously spent an extended period (3 or more continuous months) outside the UK. It should however be noted that some countries will not provide a certificate of good character unless the individual has been resident for 6 months or more.

Licensing authorities should seek or require applicants to provide where possible criminal records information or a certificate of good character from overseas in this circumstance to properly assess risk and support the decision-making process. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. See the [Criminal record checks for overseas applicants \(https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants\)](https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants) for more information on applying for overseas criminal record information or certificate of good character.

Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document ([Annex – Assessment of previous convictions](#)), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.



# Decision making

## Administration of the licensing framework

A policy is only effective if it is administered properly. The taxi and private hire vehicle 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 when 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. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.

Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

## Training decision makers

All individuals that determine whether a licence is issued should be required to undertake sufficient training. As a minimum, training for a member of a licensing committee should include:

- licensing procedures
- natural justice
- understanding the risks of CSAE
- disability and equality awareness
- the making of difficult and potentially controversial decisions

Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. 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 Lawyers in Local Government – the LGA may also be able to assist in the development of training packages.

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
- data protection legislation

When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity – this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

## The regulatory structure

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.

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 section](#). In particular, the committee/board model allows for:

1. 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 generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
2. 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.

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.

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.

Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same – to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence. It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

## **Fit and proper test**

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle 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?

If, on the balance of probabilities, the answer to the question is no, the individual should not hold a licence.

Licensing authorities have to make difficult decisions but (subject to the General principles) 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 take into consideration conduct that has not resulted in a criminal conviction.

## **Criminal convictions and rehabilitation**

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.

Annexed to this document are the department's recommendations on the assessment of previous convictions ([Annex – assessment of previous convictions](#)). 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 private hire vehicle licensees.

These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. 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 applicants are entitled to a fair and impartial consideration of their application.

## **Driver licensing**

### **Criminality checks for drivers**

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. DfT's 2019 [Survey of taxi and private hire vehicle licensing authorities](https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2019) (<https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2019>) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.

All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult barred lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application other workforce should be entered in line 1 and taxi licensing should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every 6 months. Drivers that do not subscribe up to the Update Service should still be subject to a check every 6 months.

Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. 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.

Drivers working under an arrangement to transport children may be working in regulated activity as defined by the [Safeguarding Vulnerable Groups Act 2006](https://www.legislation.gov.uk/ukpga/2006/47/contents) (<https://www.legislation.gov.uk/ukpga/2006/47/contents>) ([/w.legislation.gov.uk/ukpga/2006/47/contents](https://www.legislation.gov.uk/ukpga/2006/47/contents)). It is an offence to knowingly allow a barred individual to work in regulated activity. The [Guidance on home-to-school travel and transport](https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance) (<https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>) issued by the Department for Education (DfE) should be considered alongside this document. Please see [Guidance on driver DBS eligibility and how to apply](https://www.gov.uk/dbs-check-applicant-criminal-record/get-a-standard-or-enhanced-dbs-check-for-an-employee) (<https://www.gov.uk/dbs-check-applicant-criminal-record/get-a-standard-or-enhanced-dbs-check-for-an-employee>).

## **Safeguarding awareness**

Licensing authorities should consider the role that those in the taxi and private hire vehicle 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.

All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. 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
- understand how to respond, including how to report safeguarding concerns and where to get advice

Since 2015, DfE has run a nationwide campaign, 'Together, we can tackle child abuse', which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. DfE continues to promote and [Raise awareness of the campaign materials through its online toolkit \(https://tacklechildabuse.campaign.gov.uk/\)](https://tacklechildabuse.campaign.gov.uk/), for local authorities, charities and organisations for use on their social media channels.

## **County lines exploitation**

County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas (within the UK), using dedicated mobile phone lines or other form of deal line.

Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15 to 17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

The National Crime Agency's 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims,

drugs and cash – with hire vehicles being one of the methods used for transportation between locations.

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:

- children and young people travelling in taxis or private hire vehicles 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

The Home Office is working with partners to [Raise awareness of county lines](https://www.gov.uk/government/publications/county-lines-posters-for-taxi-and-private-vehicle-hire-staff) and has provided material (<https://www.gov.uk/government/publications/county-lines-posters-for-taxi-and-private-vehicle-hire-staff>) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

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**

A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

## **Vehicle licensing**

As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

## **Criminality checks for vehicle proprietors**

Enhanced DBS and barred list checks are not available for vehicle licensing. Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document ([Annex – assessment of previous convictions](#)), other than those relating to driving, meet the ‘fit and proper’ threshold.

However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process – a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence. These decisions must be independent of a driver licence refusal and based on the appropriate information, meaning it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

Private hire vehicle operator and vehicle 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 private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where an applicant has lived or worked overseas (see the overseas convictions section).

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

Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely 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/private hire vehicle 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

All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

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 (<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexual-offencesinenglandandwales/yearendingmarch2017#main-points>) only 17 percent of victims report their experiences to the police, 28 percent 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.

The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle 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.

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 (that is, all parties should be aware when recordings are being made) and targeted (that is, only when passengers (or drivers) consider it necessary). 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.

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. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document ([Annex – CCTV guidance](#)).

## **Stretched limousines**

Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than 9 passengers) limousines as private hire vehicles, these vehicles may be used for transport to school proms as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than 9 passenger seats – have a legitimate role to play in the private hire trade, meeting a public demand. It is the department's view 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 these services from the scope of the private hire vehicle 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.

Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the

licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, 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.

## **Private hire vehicle operator licensing**

As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

### **Criminality checks for private hire vehicle operators**

Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document ([Annex – assessment of previous convictions](#)), other than those relating to driving, meet the 'fit and proper' threshold.

However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process. A basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence. This decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

A private hire vehicle operator licence 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 private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in the [Overseas convictions](#) section.

## **Booking and dispatch staff**

Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.

Licensing authorities should be satisfied that private hire vehicle 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, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.

Operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on their register of booking and dispatch staff and to 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. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a [Responsible organisation to request the check on their behalf \(https://www.gov.uk/dbs-check-applicant-criminal-record/get-a-basic-dbs-check-for-an-employee\)](https://www.gov.uk/dbs-check-applicant-criminal-record/get-a-basic-dbs-check-for-an-employee). When individuals

start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.

The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the 2 records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.

Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

Licensing authorities should also require operators or applicants for a licence 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 private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document ([Annex – assessment of previous convictions](#)), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

## **Record keeping**

Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) (<http://www.legislation.gov.uk/ukpga/1976/57>) requires private hire vehicle 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. Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:

- 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
- the name of any individual that responded to the booking request
- the name of any individual that dispatched the vehicle

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 booking records should be retained for a minimum of 6 months.

Private hire vehicle 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.

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

PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle 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 private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

## **Enforcing the licensing regime**

Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed fit and proper but does not ensure that those already licensed continue to display the behaviours and standards expected.

## **Joint authorisation of enforcement officers**

Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. 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. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and 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 (<https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>).

## Setting expectations and monitoring

Licensing authorities should ensure that drivers are aware of the policies that they must adhere to and 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.

The provision of a clear, simple and well-publicised process for the Public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity. 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

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:

- been convicted of an offence involving dishonesty, indecency or violence
- 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

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 (<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. 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.

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

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 of a 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.

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.

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.

## **Annex – assessment of previous convictions**



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 private hire vehicle 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 consideration of their application. Where a licensing authority is made aware of a conviction, the period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. 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 against the person**

Where an applicant has a conviction for an offence of violence against the person, 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.

## **Sexual offences**

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, 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 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 may also have to undergo drugs testing for a period 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 while 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 private hire vehicle 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**

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 may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

## **Using a hand-held device whilst driving**

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 – DBS information

## Information included in criminal records check

Information included	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions <sup>[footnote 1]</sup>	Yes	Yes	Yes	Yes
Spent convictions <sup>[footnote 2]</sup>	No	Yes	Yes	Yes
Spent cautions <sup>[footnote 1]</sup> <sup>[footnote 2]</sup>	No	Yes	Yes	Yes
Additional police information <sup>[footnote 3]</sup>	No	No	Yes	Yes
Barred list(s) information <sup>[footnote 4]</sup>	No	No	No	Yes

## Annex – CCTV guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles 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. Authorities should consider the Information Commissioner’s view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office Surveillance camera code of practice

(<https://www.gov.uk/government/publications/update-to-surveillance-camera-code>)

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
- compliant with any relevant legal obligations

The code also sets out 12 guiding principles which, as a ‘relevant authority’ under section 33(5) of the Protection of Freedoms Act 2012

(<http://www.legislation.gov.uk/ukpga/2012/9/section/33/enacted>), 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.

The surveillance camera commissioner (SCC) has provided guidance on the surveillance camera code of practice in its Passport to compliance

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

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 (ICO) has also published a ICO code of practice (<https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>) 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 Surveillance camera self-assessment tool

(<https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-self-assessment-tool>) 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 (<https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-third-party-certification-scheme>) – 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.

The Data Protection Act 2018

(<http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>) 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 (<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>) on how data controllers can ensure compliance with these.

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

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 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.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. 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. 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 – the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

# Annex - 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 private hire vehicles. For example:

- a taxi can be flagged down or pre-booked
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed
- what a private hire vehicle 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

- 
1. Does not include 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 automatically disclosed on any level of certificate. Further guidance is available in the [DBS filtering guide](https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide) (<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).

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Return to an Address of the Honourable the House of Commons  
dated 04 February 2015 for the

# Report of Inspection of Rotherham Metropolitan Borough Council

February 2015

HC1050

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# Report of Inspection of Rotherham Metropolitan Borough Council

Author: Louise Casey CB

February 2015



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Any enquiries regarding this publication should be sent to us at:

Department for Communities and Local Government  
Fry building, 2 Marsham Street  
London SW1P 4DF  
Telephone: 030 3444 0000

Print ISBN 9781474115070  
Web ISBN 9781474115087

ID 03021511 46966 02/15

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

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## **Foreword**

Terrible things happened in Rotherham and on a significant scale. Children were sexually exploited by men who came largely from the Pakistani Heritage Community. Not enough was done to acknowledge this, to stop it happening, to protect children, to support victims and to apprehend perpetrators.

Upon arriving in Rotherham, these I thought were the uncontested facts. My job was to conduct an inspection and decide whether the Council was now fit for purpose.

However this was not the situation I encountered when I reached Rotherham. Instead, I found a Council in denial. They denied that there had been a problem, or if there had been, that it was as big as was said. If there was a problem they certainly were not told – it was someone else’s job. They were no worse than anyone else. They had won awards. The media were out to get them.

So this is why in making a judgement as to whether Rotherham Council is fit for purpose today I have set it in the context of how it has behaved in the past and its reluctance to deal with past failings.

I recognise that child sexual exploitation is hard to tackle. It is complex, sometimes thankless and very hard to get it right. But it is vital that public services face up to difficult tasks. However, Rotherham Council is a place where difficult problems are not always tackled as they should be. When faced with the solid findings contained in the report it had itself commissioned by Professor Jay, it did not accept them. And without accepting what happened and its role in it, it will be unable to move on and change.

We must not lose sight of what the failures in Rotherham have meant in practice; victims have been hurt and remain without justice, the Pakistani Heritage Community has been harmed by association , as have individual social workers, police officers, taxi drivers and other hard working people in the Council, voluntary sectors and the town of Rotherham more broadly. It has also harmed public services because what happened in Rotherham does not represent its values - of putting the needs of the most vulnerable always at its centre.

I want to be clear that the responsibility for the abuse that took place in Rotherham lies firmly with the vile perpetrators, many of whom have not yet faced justice for what they have done. I hope that this will shortly be rectified. But in its actions, the conclusion that I have reluctantly reached is that both today and in the past, Rotherham has at times taken more care of its reputation than it has its of its most needy.

Child abuse and exploitation happens all over the country, but Rotherham is different in that it was repeatedly told by its own youth service what was happening and it chose, not only to not act, but to close that service down. This is important because it points to how it has dealt with uncomfortable truths put before it. However, I propose that this report is one uncomfortable truth that will not be ignored, but that Rotherham Council will use it to embrace the change so sorely needed and ensure that from here it get its priorities right.

Louise Casey CB  
January 2015

## **Background and methodology**

Professor Alexis Jay's Independent Inquiry into Child Sexual Exploitation in Rotherham was commissioned by Rotherham Metropolitan Borough Council in October 2013 and published on 26<sup>th</sup> August 2014. Covering the periods of 1997-2009 and 2009 - 2013, it looked at how Rotherham Metropolitan Borough Council's (RMBC) Children's Services dealt with child sexual exploitation cases.

The report found evidence of sexual exploitation of at least 1400 children in Rotherham over this period. The majority of the perpetrators were described as 'Asian' by victims. Professor Jay found there was a "collective failure" by both the Council and police to stop the abuse.

A Best Value authority is under a general Duty of Best Value to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."<sup>1</sup>

The Secretary of State may appoint a person to carry out an inspection of a specified best value authority's compliance with the requirements of this duty in relation to specified functions.

On the 10<sup>th</sup> September 2014, the Secretary of State appointed Louise Casey CB under section 10 of the Local Government Act 1999 to carry out an inspection of the compliance of Rotherham Metropolitan Borough Council with the requirements of Part 1 of that Act, in relation to the Council's exercise of its functions on governance, children and young people, and taxi and private hire licensing.

In undertaking this inspection, Louise Casey CB was directed to consider:

In exercising its functions on governance, children and young people, and taxi and private hire licensing, whether the local authority:

- allows for adequate scrutiny by Councillors;
- covers up information, and whether 'whistle-blowers' are silenced;
- took and continues to take appropriate action against staff guilty of gross misconduct;
- was and continues to be subject to institutionalised political correctness, affecting its decision-making on sensitive issues;
- undertook and continues to undertake sufficient liaisons with other agencies, particularly the police, local health partners, and the safeguarding board;

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<sup>1</sup> Department for Communities and Local Government, *Best Value Statutory Guidance*, 2011



- took and continues to take sufficient steps to ensure only ‘fit and proper persons’ are permitted to hold a taxi licence; and
- is now taking steps to address effectively past and current weaknesses or shortcomings in the exercise of its functions, and has the capacity to continue to do so.

Louise Casey CB was appointed as lead Inspector but as the statute allows, the Secretary of State appointed on her recommendation, Assistant Inspectors to ensure that she had all the required skills and experience available to her to fulfil her remit. Louise Casey CB began her inspection on the 1<sup>st</sup> October 2014.

In total the inspection team carried out over 200 meetings with:

- Victims and their families
- Whistle-blowers
- Concerned members of the public
- Current and former Cabinet Members
- Current and past Councillors
- Current and past senior officers
- The Monitoring Officer
- Heads of Safeguarding
- Former Directors of Children’s Services
- Current and past staff in Children’s Services
- Managers and staff in taxi licensing
- External auditors
- Other local interested parties
- Representatives from the following partners:
  - Apna Haq
  - Barnsley and Rotherham Chamber of Commerce
  - Council of Mosques
  - GROW
  - Learners First
  - Local Safeguarding Children’s Board
  - Rotherham Clinical Commissioning Group
  - Rotherham Diversity Forum
  - Rotherham Ethnic Minority Alliance
  - Rotherham NHS Trust
  - Rotherham, Doncaster and South Humber Mental Health Trust (RDaSH)
  - Safe @ Last
  - Schools (x 2)
  - Senior partners who have now left Rotherham
  - South Yorkshire Fire and Rescue Authority
  - South Yorkshire Police

- Voluntary Action Rotherham

Inspectors met with over 30 representatives from the Rotherham Partnership, representatives from the Youth Cabinet, and from the community sector as facilitated and invited by Voluntary Action Rotherham.

The inspection also reviewed documentary evidence, sampled cases and processes and observed practice, including:

- Approximately 320 requests for documents totalling up to 7000 documents and information
- 68 past and current cases in Children's Services
- 19 staff case files
- 22 taxi licensing cases
- Reviewing policies, procedures and practices

The Inspection team is very grateful for the cooperation of the management and support staff of the current Council in helping the facilitation of the inspection. We were treated courteously at all times. The team is also grateful that all current and former staff that we approached including frontline workers, managers, Directors and Members agreed to be interviewed. Two people declined – former Leader, Roger Stone and former Police and Crime Commissioner, Shaun Wright.

## **EXECUTIVE SUMMARY**

Rotherham Metropolitan Borough Council is not fit for purpose. It is failing in its legal obligation to secure continuous improvement in the way in which it exercises its functions. In particular, it is failing in its duties to protect vulnerable children and young people from harm.

This inspection revealed past and present failures to accept, understand and combat the issue of Child Sexual Exploitation (CSE), resulting in a lack of support for victims and insufficient action against known perpetrators.

The Council's culture is unhealthy: bullying, sexism, suppression and misplaced 'political correctness' have cemented its failures. The Council is currently incapable of tackling its weaknesses, without a sustained intervention.

On 26<sup>th</sup> August 2014 Professor Alexis Jay published an Independent Inquiry into Child Sexual Exploitation in Rotherham. The report, commissioned by RMBC as a review of its own practices, concluded that over 1400 children had been sexually exploited in Rotherham between 1997 and 2013. The vast majority of the perpetrators were said to be 'Asian' men.

In response, on 10<sup>th</sup> September 2014, the Secretary of State for Communities and Local Government appointed Louise Casey CB to carry out an inspection of Rotherham Metropolitan Borough Council (RMBC) under section 10 of the Local Government Act 1999. The inspection would assess the Council's compliance with the requirements of Part 1 of that Act, considering leadership and governance, scrutiny, services for children and young people, taxi and private hire licensing, and whether the council 'covers up' information.

The inspection team reviewed approximately 7000 documents, looked in detail at case files and met with over 200 people, including current and former staff, council Members, partners, victims and parents.

Our investigations revealed:

- a council in denial about serious and on-going safeguarding failures
- an archaic culture of sexism, bullying and discomfort around race
- failure to address past weaknesses, in particular in Children's Social Care
- weak and ineffective arrangements for taxi licensing which leave the public at risk
- ineffective leadership and management, including political leadership
- no shared vision, a partial management team and ineffective liaisons with partners

- a culture of covering up uncomfortable truths, silencing whistle-blowers and paying off staff rather than dealing with difficult issues

Despite Professor Jay's findings, which we fully endorse, and substantial quantities of information available within the Council, RMBC demonstrates a resolute denial of what has happened in the borough. This took several forms – notable in their recurrence – including dismissal of Professor Jay's findings, denial of knowledge of the 'scale and scope' of CSE, blaming others, and denial that CSE remains a serious problem in present day Rotherham. Whilst the appointments of a Children's Commissioner and interim Chief Executive (CE) have undoubtedly been beneficial, changes in the senior management team alone will not be enough to shift things on.

Interviews with staff and Members of RMBC highlighted a pervading culture of sexism, bullying and silencing debate. The issue of race is contentious, with staff and Members lacking the confidence to tackle difficult issues for fear of being seen as racist or upsetting community cohesion. By failing to take action against the Pakistani heritage male perpetrators of CSE in the borough, the Council has inadvertently fuelled the far right and allowed racial tensions to grow. It has done a great disservice to the Pakistani heritage community and the good people of Rotherham as a result.

We have concluded that RMBC does not have strong enough political and managerial leadership to guide the borough out of its present difficulties and put it back on a path to success.

RMBC's Children's Services are failing, with a lack of clarity over priorities, repeatedly missed deadlines for the assessment of children in need of care and protection, poor decision-making, drift and delay. The dedicated CSE team is poorly directed, suffers from excessive case loads, and an inability to share information between agencies.

Perpetrators are identified, but too often little or no action is taken to stop or even disrupt their activities and protect children from harm. One of the most important partners is South Yorkshire Police, with whom inspectors expected to find a robust and equal relationship. Instead, RMBC demonstrated an excessive deference to police assurances and a failure to recognise their own role in pursuing perpetrators. This prevented the use of council powers to tackle perpetrators and a lack of scrutiny over the police's actions – actions which inspectors would also call into question. Partnership working is ineffective. The structures are overly-complicated and do not drive action. Partners are critical that the Council is not providing a lead in these troubled times for the town.

The Council does not use inspection to learn and improve. Members are overly-reliant on officers and do not challenge tenaciously enough to ensure improvements. Meeting and action plans are numerous but unproductive, with a tendency towards inertia.

Some Members have not set and modelled the high standards expected of those in public life. Historic concerns around conduct have not been effectively tackled. RMBC has a culture of suppressing bad news and ignoring difficult issues. This culture is deep-rooted; RMBC goes to some length to cover up information and to silence whistle-blowers.

RMBC needs a fresh start.

## **WHERE WERE THE REST OF THE COUNCIL?**

RMBC also let down victims. Inspectors saw little evidence that RMBC actually challenged their police partners about the lack of prosecutions, or followed up what was happening with 'ongoing investigations'. Nor was there evidence that they had raised the undoubted difficulties around getting CSE cases into court with the Crown Prosecution Service.

Tackling CSE is a community safety issue. Street grooming was happening in the community of which RMBC is the custodian including parks, takeaways, taxis, at the Interchange<sup>14</sup>, in hotels, in houses, in alleyways and in the town centre. These are all areas where the local authority has a presence and has powers and responsibilities which could have contributed towards disrupting perpetrators and protecting victims, such as injunctions and powers to tackle nuisance behaviour.<sup>15</sup>

These powers were not mobilised. Instead, it seems the Council accepted the police assurances that they were undertaking investigations and left Children's Social Care and Youth Services to deal with CSE. This was an abdication of duty as neither social care nor Risky Business had the powers, skills or resource to disrupt perpetrators.

In Inspectors' view, the Safer Rotherham Partnership and the Community Safety Division of RMBC should have taken a much more proactive role in prevention, disruption and enforcement action against perpetrators.

In 2005, the Leader of the Council called on the community safety partnership to make tackling CSE a priority for the next three years. There is no evidence that this was taken forward. Indeed CSE does not feature in the board minutes until 2008, even after receiving the police and local authority priority reports (Joint Strategic Intelligence Assessments) which highlighted CSE as an issue from 2007.

The Partnership's Joint Action Group minutes in August 2011 note that an Action Plan from a Sexual Exploitation Group would be presented at future meetings. This was deferred three times over a six month period before a detailed discussion took place.

This corporate failure extends to taxi licensing and enforcement who failed to use their powers to tackle links between CSE and the taxi trade. Inspectors found the licensing and enforcement sides of the taxi regulation service to be unable or indeed uninterested in gripping the issue and using their powers to good effect.

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<sup>14</sup> A bus station located in Rotherham's town centre.

<sup>15</sup> This issue is addressed further in Section 2 of this report.

Furthermore, the Council failed to make use of the information it had in front of it which could have been used to support concerted action against perpetrators and CSE activity. Information on CSE hotspots, on businesses of concern, on suspected perpetrators and on the links between them were all available within the Council on Risky Business's information database. There was also information about perpetrators and CSE in social care case meetings held under their procedures. This information appears not to have stepped out of the files and gone any further within the Council. The database was closed and handed over to the police in 2011/2 when Risky Business became part of social care over concerns about its compliance with 'data protection laws'. This information could have been valuable in tackling and disrupting perpetrators.

Inspectors found this to be an abdication of RMBC's duty to victims.

### **3. DID ROTHERHAM TAKE AND CONTINUE TO TAKE SUFFICIENT STEPS TO ENSURE ONLY FIT AND PROPER PERSONS ARE PERMITTED TO HOLD A TAXI LICENCE?**

Inspectors were directed to consider whether RMBC took and continues to take sufficient steps to ensure only 'fit and proper persons' are permitted to hold a taxi licence.

#### **Background**

Licensing, regulation and enforcement functions exist to protect the general public from harm across areas ranging from food safety to houses in multiple occupation, to licensed premises for entertainment. Safety is one of the principles of licensing which informs legislation. The safety of the public should be the uppermost concern of any licensing and enforcement regime: when determining policy, setting standards and deciding how they will be enforced.

This is nowhere more important than in taxi licensing where sometimes vulnerable people are unaccompanied in a car with a stranger. For this reason, taxi driving is a 'notifiable' occupation, so if a taxi driver is arrested, charged or convicted, or is the subject of a police investigation, the Licensing Authority must be informed.

#### **Judgement**

Inspectors have found that Rotherham has not taken, and does not take, sufficient steps to ensure only fit and proper persons are permitted to hold a taxi licence. As a result, it cannot provide assurances that the public, including vulnerable people, are safe. The inspection uncovered serious weaknesses and concerns.

#### **Licensing at RMBC**

The Licensing Authority for Rotherham is the Council. It processes applications and renewals for taxi licences, operator licences and vehicle licences. As such, it needs to:

- ensure that taxi drivers are 'fit and proper' to drive the public
- investigate any complaints about the conduct of drivers/operators and
- consider complaints when licences come up for renewal – or more urgently if need be
- ensure compliance with operator and driver licence conditions and vehicle conditions.

The licensing service in Rotherham reports to the Director of Housing and Neighbourhood Services in the Neighbourhood and Adult Services directorate



(NAS). Home to school transport has also been contracted out to taxi operators but is managed by a separate team.

There is a Member level Licensing Board which reports to full Council, and has delegated authority to determine policy and applications, suspensions and revocations of licence. The Board has recently been reduced from 25 to 5 Members. There is further delegation to the Director to undertake suspensions of licences. There is a right of appeal for decisions that are made by the Council to the Magistrates Court.

As at September 2014 there were 86 private hire operators, 840 vehicles, 52 Hackney carriages and 1158 licensed drivers in Rotherham.

In the past 5 years, the service has dealt with a total of 1100 complaints about taxi drivers. The annual level of complaints has been steady for the past three years at around 180. In the past five years the service has suspended 33 licences and revoked 26, with a further 29 revoked due to non-production of appropriate documentation.

### **A divided service**

The licensing service portfolio covers eight other licensing areas including gambling, alcohol and licensed takeaways. The taxi service is divided into two branches:

- the Policy team deals with policy, applications, renewals, suspensions and revocations
- The Enforcement team deals with complaints and investigations

The split of these functions is not common in other licensing authorities. Inspectors found evidence of conflict between the two branches, notably on what kind of evidence could be presented when the Licensing Board meets to consider whether to revoke or suspend a licence.

The two branches of licensing use different databases which do not interface, so information is not easily shared between Policy and Enforcement teams. This means that driver or operator records cannot be viewed in a single place, requires officers to request information from each other and has sometimes resulted in a licence being renewed without question when in fact the driver is being investigated following a complaint.

Inspectors found that enforcement staff do not always record complaints or information gathered on these data systems. This inconsistent recording of information on complaints has the consequence that because data on driver performance and conduct is not collected, trends are not identified and track record

data (for example identifying a series of complaints) may not be available at the point of licence renewal.

Meetings are rarely held across the entire service and some officers said that the visibility of senior leaders was poor. One officer stated that they had seen them for the first time at a briefing meeting shortly before Inspectors arrived.

### **Lack of policy**

A number of officers had worked in other Licensing Authorities and commented to Inspectors that RMBC was behind the times as the licensing service appeared to have few written policies and attempts to draw those up would be stymied. Inspectors found that the Council's bye-laws and conditions relating to vehicle, taxi driver and operator licences seemed not to have changed since 1976, bearing out this contention.

And although there is clear documentation around procedure, there is no indication of what 'serious concerns around the activities of a licensed driver' should prompt for example an immediate suspension of an individual driver. Managers refused to be drawn on this matter, insisting that each case was different and stating that they would act on evidence from police.

### **Trade influence and the role of Members**

Inspectors were often told that the private hire trade in Rotherham is vocal and demanding and some officers expressed the view that the licensing service seemed more geared towards facilitating the trade than protecting the public.

Members added to this pressure to support the trade. Some who had previously held taxi licences or 'badges' sat on the Licensing Board. At one point, the Board had been reluctant to hear any cases not related to matters showing up on DBS checks. That means where there were no actual convictions they would not suspend or revoke licences.

Licensing officers reported to Inspectors that they had received phone calls from Members over perceived delays in the processing of individual applications. Officers would be urged to 'stop wasting time'.

*"The taxi driver is the customer and no thought is given to the passenger."* An officer

There are instances of Members making representations on behalf of the trade or individual drivers. For example, one Councillor wrote to the Crown Court offering a reference on behalf of a driver who had his licence revoked. As noted earlier

Inspectors were also told that 'no notice' vehicle spot checks were changed to '10-day notice' checks after representations from the trade and a Member intervention.

### **Complaints and Investigations**

There are major concerns over the licensing service's ability to undertake thorough investigations giving rise to a perception of undue weight being given to the need to protect drivers' livelihoods over and above the safety of the public.

The inspection undertook an audit of 22 complaints and found 86 per cent to be inadequate. There is inadequate investigation of some complaints and lack of tenacity resulting in cases being closed before they are satisfactorily resolved. There seems to be a propensity for informal resolution of complaints, giving the trade the benefit of the doubt and not following up all lines of enquiry including the evidence of complainants. This included a number of cases in which drivers had refused to carry passengers with guide dogs.

There has been inadequate follow through and information exchange with Children's Services and with the police on individual cases. This is despite clear efforts by some individual officers to establish good working links with related services, such as home to school transport service. Inspectors noted frustrations expressed by officers concerning feedback from police on cases which had been referred on to them to pursue. Inspectors also noted – and share – concerns expressed by officers that the service is not routinely informed by police of potential CSE concerns including abduction notices.

Officers seemed to lack curiosity over whether there are particular operators where a large number of vehicles may have fallen below standard, or a large number of drivers may have attracted complaints. As a result there is no record of the service exercising its right to place any conditions on individual operator licences where recurrent issues have been identified.

The service has set too high a threshold of evidence before considering suspension and revocation of a licence. Officers are entitled to apply a 'balance of probabilities' test to alleged offences by drivers, but instead appear to apply a test of 'whether it would get past the CPS'. There are examples where the service appears to have closed cases because it believes the CPS thresholds for prosecution will not be met. There is an associated concern here that information which the service does not regard as 'evidence' may not be provided to other parties.

In addition, Members of the Licensing Board have not been given sufficient bespoke training on dealing with taxi hearings moreover after Member complaints the number and nature of documents being provided to Members in advance of

suspension/revocation hearings have been reduced which may diminish the quality of the judgements made and could lead to outcomes which place the public at risk.

#### 'Home to School' transport scheme

RMBC operates a ' Home to School' transport scheme enabling qualifying, potentially vulnerable, children and young people to travel to and from home to schools and colleges, often unaccompanied.

The use of taxis within this scheme relies on the Council's Licensing service to ensure that drivers, vehicles and operators are properly licensed and that a driver passes the 'fit and proper' person test.

Under one of these contracts, a 21 year old taxi driver was transporting a child with physical health difficulties to and from his place of learning. The boy wrote to the Council setting out some 20 complaints about this driver including that he was:

- Swearing and shouting abuse at other drivers
- Laughing at him and mocking his disability
- Showing him sexually explicit videos on his mobile phone
- Driving dangerously and at excessive speed
- Urinating in full view of him
- Telling the young man that he was involved in illegal drugs

On receipt of this complaint a multi-agency strategy meeting was held. It concluded that this alleged behaviour could have upset the passenger and he was offered appropriate support. The driver's contract was subsequently terminated and it was recommended that the licensing service investigate whether the driver was a 'fit and proper' person to hold a private hire driver licence.

Police investigated the complaint (after a period of time whilst the driver was abroad). They found no images on the driver's mobile phone. After an interview with him, they concluded that he was not a risk, that the complaint had been prompted by a relationship breakdown and aspects of the complaint were about 'laddish' behaviour. In relation to the other allegations there was insufficient evidence to bring any criminal charges.

The driver was also formally interviewed by the Council's licensing enforcement officer who prepared a file to be submitted to the Licensing Board. It was decided that the boy's allegations relating to graphic sexual images should not form part of case papers being presented. Only the following complaints were put before the Licensing Board:

- Insulting words towards a passenger
- Urinating in view of the passenger
- Conduct of driver
- Driving with an under inflated tyre

The case was presented to the Licensing Board hearing six months after the complaint was made. The driver was represented at the hearing and he was cross examined by Members in what can be best described as a light touch fashion.

The Board agreed that the driver was not a fit and proper person but only suspended his licence for three months leaving him free to operate as a private hire driver after that time had lapsed.

*"...it was strange to have a licence removed for three months. You're either a fit and proper person or you're not – you don't just become fit again after three months."* An officer

The details of this case were offered to the inspection as an example of improvement in licensing practice.

### **Pressure on staff**

Long term sickness has depleted the Principal Officer grade on the enforcement side for some time. An unresolved contractual issue over late working has meant there is no enforcement of licensing matters around the night time economy. Enforcement officer caseloads were unevenly spread and officers clearly felt understaffed, with one officer commenting that it was sometimes impossible to log off from a telephone which rang incessantly.

### **Licensing – a new policy?**

The Licensing Board in October 2014 agreed a draft revised policy for consultation. The policy brings together various existing policies into one document and introduces some changes including requirements for drivers to achieve BTEC level 2 certificate; extending to five years the requirement for holding a UK driving licence; tougher knowledge tests; more rigorous standards for the consideration of criminality including sexual offences concerning children and vulnerable people.

This new policy is to be welcomed. However it falls short in a number of respects:

1. The Council's general enforcement policy which underpins the proposed Licensing policy does not, in our view, give sufficient prominence to the need to protect the public.
2. The guidance suggests that the authority will not normally grant a licence if an applicant has more than one conviction for indecency or is on the sex offenders register. Inspectors find this unacceptable. One conviction should be more than enough to prevent a licence being granted.

In addition, there is no reference to how the service will deal with complaints/service requests where the complainant does not want to report the incident to the police or the police decide not to investigate or prosecute because of the criminal burden of proof. Our audit of complaints demonstrate that allegations relating to inappropriate behaviour including sexual harassment were not properly investigated. In our view, the reliance on convictions alone will not provide a strong message to the trade on acceptable standards or reassure parents and the public that drivers are safe to transport their children.

The timetable for implementation seems unnecessarily elongated with implementation not expected until April 2015 with no retrospection of standards. This will mean that full application of these measures to all drivers will take nearly three years. Given the high profile of public concerns and real evidence that children have not been properly protected when using taxis in Rotherham, this seems far too long.

### **Service Improvement Plan**

We understand that as a result of our inspection, the Licensing Service has sought to address some of issues we have highlighted by implementing a service improvement and performance management plan. The plans were not part of the inspection and we are therefore unable to comment on whether the actions identified are sufficient to address the findings of our inspection.

#### **4. TAXIS AND CHILD SEXUAL EXPLOITATION**

*'[I am working with a girl] she caught a taxi to her boyfriends and she was let off the fare as she didn't have much money. He took her to McDonalds and bought her food...she realised he was much older, in his late 30s. He took her out to XXX in his taxi – she believes another young woman was locked in a room – he tried to have sex in the car...she has given the details in a statement to the police.....'*

*'It's not safe to use taxis.'*

Inspectors were directed to consider whether RMBC, in light of the Jay report which highlighted serious failings in the authority over a number of years with regard to the safeguarding of children, was and continues to be subject to institutionalised political correctness, affecting its decision-making on sensitive issues; to consider whether RMBC undertook and continues to undertake sufficient liaisons with other agencies, particularly the police, local health partners, and the safeguarding board and whether RMBC took and continues to take sufficient steps to ensure only 'fit and proper persons' are permitted to hold a taxi licence.

Concern around taxis remains pervasive in the town. Throughout the inspection, individual inspectors frequently heard that people did not feel safe using taxis. The well publicised link between taxis and CSE in Rotherham has and continues to cast a long shadow over the vast majority of law abiding drivers who make their living from the taxi trade. So it is not only to protect potential victims from unscrupulous drivers that RMBC needs to get their house in order and regulate taxis effectively, but also for the drivers who are damned by association.

Professor Jay deemed the prominent role of taxi drivers in CSE as a 'common thread' across England and noted that their involvement was evident from an early stage in Rotherham. *'Residential unit heads met in the 90s to discuss taxis collecting girls, school heads in early 2000s reported taxis picking girls up to provide oral sex in the lunch break'* she said.

The Jay report described how the Safeguarding Unit in the Council convened Strategy meetings from time to time on allegations of CSE involving taxi drivers. She described meeting minutes demonstrating how a single operator was the subject of four meetings in a seven week period, girls having disclosed information in 2010, recording how children were being sexually exploited for free taxi rides and goods and noted three cases of attempted abduction. She also recorded that RMBC had advised that taxi drivers had only been involved in a total of four CSE-related cases (between 2009 and 2012), which had all been dealt with appropriately by the Council's licensing authority.

## **Licensing Authority – denial that they knew of a CSE problem**

When conducting interviews across the licensing service, Inspectors asked for reflections on the Jay report, on CSE in Rotherham, on work with police and social care and on the awareness of indicators such as Abduction Notices in alerting officials that licensed drivers may have developed inappropriate relationships with underage girls. Inspectors were mindful that Licensing Authorities can suspend/revoke licences on the balance of probabilities and do not need to prove an allegation or complaint beyond reasonable doubt, or await a conviction.

In interview, the Director of Housing and Neighbourhood Services, who is responsible for the licensing service, expressed annoyance at the impact the Jay report had had on the Council and remained adamant that the four CSE-related revocations of licences quoted by Professor Jay represented the full extent of taxi driver involvement in CSE in Rotherham. He said that one of those revocations (in January 2011) had marked his first awareness of CSE as an issue. Since the inspection had been announced, he had reviewed a total of 1400 cases (on all kinds of complaints) and only eight had given cause for concern. He remained confident: *'our service is compliant with the best in the area'*.

Specifically, he stated that the concerns expressed in Strategy meetings about cases from 2010 described by Professor Jay were unfounded. He subsequently established that the information was correct; but intelligence from these meetings or from Responsible Authority meetings had not been fed up to him: *'I don't know what I don't know'*. When questioned about systems to ensure the Licensing service was made aware by police of any Abduction Notices issued against drivers, he responded *'Abduction notices mean no proof'*. Lack of 'proof' was a continuing theme: *"Rotherham is a village, professional gossip becomes fact the question for me is "what is veracity?"*" An officer

Less senior staff displayed some ambivalence. Most officers said they would not use a private hire taxi or allow their families to do so. Concerns were also expressed that children in residential units could be ordering taxis by mobile phone and that care workers could be powerless to stop taxi drivers from either grooming young women or transporting them to be exploited.

However, officers echoed the senior management view that the four cases where drivers had lost licences for CSE-related reasons represented the full extent of proven taxi driver involvement in CSE. Officers repeatedly stressed that if presented with evidence of CSE (preferably by police in the form of a conviction) they would act on it by suspending drivers. They appeared less able to grasp the notion that in the arena of CSE 'evidence' rarely appears fully formed and may need to be established by building a composite picture based on different sources of information.



## **Evidence that the Licensing Authority knew of taxis and CSE as a problem**

In trying to assess the level of concern around taxi drivers and CSE and whether the licensing authority at the Council knew about it and responded to that concern, the inspection mainly considered documentary evidence since 2010. All members of the current licensing team were in position at that point.

Inspectors found that the Licensing Manager and the Principal Environmental Health officer had attended a meeting of the Exploitation Steering sub-group in 2010 at which there had been wide-ranging discussions under the agenda heading 'Taxi Licensing and links to Sexual Exploitation'. In November 2010, it was agreed to 'collate a small short task and finish group... in order to investigate allegations that taxi and takeaways were using their position to engage with vulnerable children'. In February 2011, a Safeguarding Manager confirmed a link had been established and that they had attended a meeting with the Assistant Chief Executive where this has been confirmed. One of the recorded actions was to invite Members of the licensing board to a national sexual exploitation conference on the Operation Central lessons learnt, planned for April 2011. The Exploitation sub-group meeting minutes confirm that the Safeguarding Board had concerns in relation to taxis and CSE and that licensing staff were aware of these.

Licensing officers were also invited to attend meetings convened by the Assistant Chief Executive, which from 2010 had considered CSE. Officers told Inspectors they had sought permission from senior management when first approached to attend the meetings. Document bundles provided to the inspection include emails discussing these meetings; senior managers were aware of the Strategy meetings and the issues of CSE and taxis raised there. The service director maintains he was not made aware and Inspectors have seen no evidence to contradict this.

Licensing officers who attended recalled being asked not to take notes and being given scraps of intelligence and asked to check up on it and report back. They ran some information through their systems. Some meetings had been general, others had focused on specific young people at risk.

### **'Grid of concerns'**

A grid had been produced which itemised issues of concern raised at the meetings. The grid was later provided to the Inspection team by the Council. It covered Strategy meetings in 2010 and was accompanied by a letter to Inspectors from a Senior Licensing Manager stressing that no officials had attended the meetings in question, but confirming that the Licensing service had been provided with the grid back in December 2010. This would indicate that the specific cases itemised in the grid were known within the licensing authority from that date.

Over ten Strategy meetings were listed throughout 2010. Some were multi-agency. All the concerns related to named young people, a high proportion of whom were 'looked after'. There were three or four allegations relating to unidentified vehicles or drivers, or to premises outside Rotherham. Otherwise, most allegations identified specific operators (mainly Operators A, B and C) and in some cases named drivers. Some of the named girls were involved in live police operations then underway, so information came from the police.

Concerns were raised over:

- Taxi drivers harassing or attempting to abduct young people;
- Taxis behaving suspiciously in Clifton Park (a known hotspot for CSE);
- Taxi drivers collecting or dropping off young people from residential homes in a drunken state or in possession of skunk marijuana;
- Young people reporting that they or their friends had performed sex acts in taxis for cigarettes, alcohol or money – or had been asked to do so by taxi drivers; and
- An allegation of rape and serious abuse.

#### **Examples from the grid:**

1. Child protection referral on X, by Y at Z residential unit. X's peers say she is giving out large sums of money, sometimes up to £60 to other young people. She says she is receiving money, cigarettes and alcohol in return for providing sexual acts for drivers from operator C and others. Her parents have also reported an operator B taxi waiting outside the house to collect X more than once.

2. A 12 year old girl, part of a live police investigation disclosed rape and abuse of other young females by X and describes X and his brother as taxi drivers (at Operator B). She has also made allegations against his brother. Operator B taxis have also been seen parked outside her school.

3. Park warden reported two Operator D cabs reported outside Clifton Park museum at 7.30 at night, behaving suspiciously. Registration numbers were taken down and cars checked out as Operator D vehicles.

Setting aside conflicting accounts of whether officials attended any or all of these meetings, the Council's licensing management have formally stated to the inspection team that the grid of CSE concerns was provided to them in 2010, so the clear tenor and pattern of allegations and the focus on certain operators should have been clear to them.

## **Responsible Authority Meetings**

Responsible Authority (RA) meetings were set up in accordance with the 2003 licensing act as a forum for agencies to discuss matters in relation to licensed premises such as takeaways. The current Rotherham licensing manager chaired these meetings from 2010 and presciently chose to include taxis as a standing item on the agenda. She invited Risky Business to attend to provide intelligence on taxis and licensed premises in regard to CSE. A member of the Safeguarding board also attended most RA meetings as did a police liaison officer.

Concerns raised at RA meetings in 2010 include:

- Reports that operator E cabs are using unlicensed drivers who may be transporting underage girls around.
- Child missing over the weekend, an item of her clothing reported to be left in Operator B's office (February).
- Concerns raised by a local Councillor and local residents about a taxi transporting girls around the area who then indulge in sexual activity (Aug).
- Concerns about children conducting sexual acts for vodka or food at named shops, takeaways and pubs.
- An allegation made to police by a 13 year old against a named driver.
- A taxi driver taking two 'looked after' girls to Sheffield.
- Girls being taken to Clifton Park by taxi drivers again. Abduction Notices served against driver from Operators B and C.
- A missing 14 year old found at premises on Prince of Wales Road where an Abduction Notice had been served on the taxi driver.

## **Responses to concerns**

Inspectors interviewed officers about specific cases discussed at RA meetings and reviewed a selection of incident files. A number of these illustrated issues of concern to inspectors.

- A customer complained that operator E was using a driver whom s/he knew to be unlicensed and a criminal. An enforcement officer opened a complaint, then closed it the following day after calling the operator who claimed the driver was his son and alleged a malicious complaint from his son's ex-partner and family. No investigation was conducted despite allegations at RA meetings (see above) that the operator's son could be involved in CSE. No action was taken for allowing an unlicensed driver to drive a taxi. Five months later a further complaint was received relating to the operator's son again driving a taxi. The complainant further stated that the son had just come out of prison and that the licensing board had previously rejected his taxi badge application in 2008 and that he had also been disqualified from driving. The

operator was said to be allowing three other unlicensed drivers to use his vehicles. The case was closed on the basis of insufficient evidence to continue.

- A social worker reported that Z, an Operator C driver, had turned up at 5am at the house of a vulnerable client with learning difficulties and refused to leave until she had sex with him. After repeated episodes the client feared she had contracted an STD and the driver was now pressuring another vulnerable person. Licensing officers were asked to make interim measures while police were informed, but no action appears to have been taken.
- A mother complained that when her daughter struggled to open a taxi door the driver told her *'you could have been raped in the time it took you to do that'*. The daughter was very upset. The system records the case was closed after the driver said his comments were taken out of context and notes the *'informant was happy with that'*. It is unclear whether the daughter was spoken to.

Interviews conducted by Inspectors about licensing investigations coupled with analysis of documents, demonstrated a failure to follow through concerns and complaints into action. Inspectors were concerned that when an investigation was passed on to the police it no longer appeared as active on the licensing database/system. This means that no record of potentially serious cases could be built up or taken into account if further complaints were made against a driver. Investigations also appeared to have been halted on the basis of summary assessments of the quality of evidence and whether it would satisfy the CPS.

Moreover, where cases had been referred to the police, no further action by police was used as a basis for closing the case in the licensing team, even though (as has been noted above) licensing can apply lower thresholds of proof.

Officers demonstrated little inclination to take steps to convert anecdote or information into evidence, for example, by working with residential care homes to monitor taxi activities.

One senior manager cited a joint operation between licensing and neighbourhood safety officers to stand up allegations of CSE related activity in Clifton Park as an example of licensing 'going above and beyond' in its attempts to gather evidence. The operation had run for several evenings until 10pm and found nothing. This was unsurprising as officials had held a meeting with the trade to alert them it would be happening.

Inspectors were concerned that on the basis of a single, flawed and short-lived surveillance operation licensing were prepared to give Clifton Park (and the taxis which congregate there) a 'clean bill of health' in perpetuity.

Inspectors noted a repeated downplaying of low level harassment claims, '*her mother said she was probably pissed*' an enforcement officer commented, of a complaint by a young woman that a taxi driver had put his hand on her leg unbidden. The young woman herself was not interviewed.

Although Strategy and RA meeting notes repeatedly cited the same few operators in relation to CSE linked issues, when asked if any operators gave particular cause for concern in this regard, officers could not think of any.

### **The case of Operator B**

Concerns were raised about this operator repeatedly in both Strategy and RA meeting minutes. Officers built a case (not based on CSE concerns) against the operator as 'not a fit and proper person', which was taken to the Licensing Board, which revoked both of the operator's licences (for operating and driving).

A magistrate's court dismissed the operator's appeal against the revocations. However, in advance of a further Crown Court hearing RMBC accepted a deal whereby the operator relinquished his operator's licence, but kept his driver's 'badge'. Shortly afterwards a family member of his applied for an operator's licence, which was granted and the operator continued trading under a new name. Officials continue to deal with the original operator on licensing matters. In effect the operator carried on under a new guise in full knowledge of the licensing team.

### **Revocations and current practice**

Inspectors noted that only one of the four case studies handed over by RMBC showing revocations of licence (between 2009 and 2012) arose out of the investigation of a complaint. A mother complained after a driver followed her daughter home. Inspectors heard that the board initially refused to hear the case (because the daughter didn't attend herself) and refused to keep the driver and complainant separate when the hearing took place. Three others followed notification from police of arrests so they acted upon that notification.

Inspectors were also concerned at officers' attitude towards limousines. Limousines with over eight seats come under the jurisdiction of VOSA, not the licensing authority, but CSE related concerns had been raised at both Strategy meetings and RA meetings about one particular company. The Licensing Authority expressed disquiet that Children's Safeguarding had written to schools in advance of the prom season, advising parents that there had been CSE related concerns about limos.

This was seen as irregular and not based on 'fact', rather than an attempt to prevent a serious issue falling through a gap in RMBC's jurisdiction.

Inspectors noted that RA meetings are now chaired by a senior manager from the licensing section, who will exert 'tighter control' of the discussion and minutes. Inspectors also witnessed a discussion at a CSE tactical meeting in November 2014 during which a senior licensing manager challenged whether taxis and takeaways in Rotherham should be included as possible areas where CSE may be occurring. Both the Chair of the meeting and the CSE coordinator pointed out that taxi and takeaways were identified as a risk nationally and there had been a historic link with CSE in Rotherham. The senior manager did not accept that there was a current problem with CSE and taxis and takeaways. Inspectors are concerned that the services' refusal to accept a link with CSE is hampering its ability to take effective action, investigate complaints properly, share intelligence appropriately or contribute to building a composite picture enabling others to take action.

**Independent Inquiry**  
Telford Child Sexual  
Exploitation

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**Report of the  
Independent Inquiry  
Telford Child Sexual Exploitation**

**Chaired by Tom Crowther QC**

VOLUME THREE  
OF FOUR

**12 July 2022**

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## Independent Inquiry Telford Child Sexual Exploitation

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## 4. Taxi Licensing and the Night-Time Economy

### Introduction

4.1 The Inquiry has been tasked with examining the local taxi industry and taxi licensing, and the night-time economy, and the impact that this has had on CSE. This limb of the Inquiry's Terms of Reference seeks to investigate significant claims made during the consultation period, which relate to the alleged involvement in CSE of the taxi industry and the night-time economy, in particular nightclubs and fast food takeaway restaurants.

4.2 Whilst gathering evidence from CSE victim/survivors, the Inquiry heard numerous accounts of children being subjected to unwanted sexual attention in taxis,<sup>1</sup> which led in some cases to rape or other serious sexual assault by the driver.<sup>2</sup> Many of these victim/survivors' first experience of CSE arose following interaction with, or the befriending of, men who drove taxis locally for a living,<sup>3</sup> as happened in the case of Lucy Lowe, a child who was murdered in 2000 by her 'boyfriend', a local taxi driver. I have also seen reference to the allegation that taxi drivers are believed to work together for the purpose of committing CSE, for example;

*"Asian men will pick up a girl in a taxi when drunk, stop at a shop, supposedly to buy a drink, and then drive off, leaving the girl abandoned. He will then call other men, one of whom will pick the girl up, thereby "rescuing" her, with the others driving to a pre-arranged location in readiness for the second taxi to bring the girl there in order that all the men can rape her."*<sup>4</sup>

4.3 I have also seen evidence from a parent, whose daughter, a suspected CSE victim, now refuses to travel anywhere in a taxi, due to her past experiences.<sup>5</sup>

4.4 Also of serious concern to the Inquiry are the reports relayed by professionals, of taxi drivers harassing children and loitering outside schools, picking pupils up at lunchtimes. For example:<sup>6</sup>

*"It was usual practice for some girls... to leave the school grounds at lunchtime, with these men, in some cases not returning to school for afternoon lessons once the lunchtime period had ended. Due to the layout of the school it would have been obvious that the girls were leaving and returning in these cars."*<sup>7</sup>

4.5 One head teacher told me that licensed taxis would drop children off at school in the morning and that:

1 [redacted] pg 37, [redacted] pg 12, [redacted] pg 2  
2 [redacted] pg 10, [redacted] pgs 3-4, [redacted] pg 5, [redacted] pgs 5-6  
3 [redacted] pg 9  
4 [redacted] pgs 56-57  
5 [redacted] pg 31  
6 [redacted] pg 2  
7 [redacted] pg 2

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*"... there were girls who said they'd been up the Wrekin before they'd come to school. And you know you have to ask yourself, you know despite the fact you didn't necessarily have concrete evidence, you had to ask yourself what was going on with a taxi driving a girl up the Wrekin before school, why would you go up the Wrekin if you know, you know, I mean there'll be people who don't know what the Wrekin is... but if you think about what the Wrekin is, how remote and how quiet it is up there, what on earth had you been up the Wrekin for?"*<sup>8</sup>

4.6 Furthermore, of the CSE victim/survivors who have come forward to the Inquiry, many were subjected to CSE after gaining weekend employment in fast food establishments locally, where they met the perpetrators of their eventual abuse, even being employed by them in some cases.<sup>9</sup> The Inquiry has heard that the upstairs rooms of some of these establishments were used as premises for committing serious sexual assaults<sup>10</sup> and of several cases of children being raped by food delivery drivers when accompanying them on food delivery runs<sup>11</sup> or otherwise befriending them.<sup>12</sup> In addition, at least one local nightclub has been named as a venue where children were exploited.<sup>13</sup>

4.7 Finally, I have noted that Telford & Wrekin Council's (the "Council") own initial investigations into suspected CSE activity, in approximately 2000, were triggered in part by concerns about children going missing who were then:

*"... going to that takeaway, being befriended by Asian men that worked in that takeaway and they were also being trafficked through, by Asian men, through the taxi services."*<sup>14</sup>

4.8 In order to fully investigate these allegations, and the response or action taken by the Council to address them, I will consider:

4.8.1 The application of the taxi licensing regime in Telford & Wrekin, to include driver and vehicle licensing; the sources of information upon which the Council relies; the Council's relationship with the trade to 2008; enforcement since 2008 including cross-border licensing; and 'badge swapping', a practice allegedly used by the perpetrators of CSE.<sup>15</sup>

4.8.2 The 'night-time economy' to include nightclubs (especially 'under 18s' events) and other licensed premises, where these are relevant to the Inquiry's Terms of Reference; measures put in place by the Council to ensure the safety of those around licensed premises and the use of any information generated as a result; and West Mercia Police's ("WMP") approach to the night-time economy as a whole.

<sup>8</sup> [REDACTED] pg 38  
<sup>9</sup> [REDACTED] pg 4  
<sup>10</sup> [REDACTED] pg 5  
<sup>11</sup> [REDACTED] pg 9  
<sup>12</sup> [REDACTED] pg 2, [REDACTED] pg 11, [REDACTED] pg 3, [REDACTED] pg 13, [REDACTED] pg 17  
<sup>13</sup> [REDACTED] pg 4, [REDACTED] pg 45, [REDACTED] pg 6, [REDACTED] pgs 6-7  
<sup>14</sup> [REDACTED] pg 4  
<sup>15</sup> [REDACTED] pg 8

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### Specific disclosure requests

- 4.9 In preparation for the examination of these areas, requests for specific disclosure were made to relevant organisations, as follows:
- 4.9.1 Telford Magistrates' Court – the Inquiry requested all relevant documentation, however no documents were forthcoming. This is perhaps unsurprising given the passage of time (the magistrates lost responsibility for liquor licensing in 2003) and likely retention period.
  - 4.9.2 The Council – the Inquiry requested a list of all taxi licensees, including details of suspensions and the reason for those suspensions, from the date the Council assumed responsibility to the present day. The Council advised in response that information of this nature was only available dating back to 2002, which was then provided.
  - 4.9.3 Shropshire Council – again, the Inquiry requested a list of all taxi licensees, from 1989 to the present day. As part of this list, details of all licence suspensions, revocations, written warnings, other interventions and the reason for those interventions were requested, as well as a complete list of taxi licences held by Shropshire Council and its previous iteration, Shropshire County Council. This level of detail was required due to the concerns raised about taxi licensing specifically and it being described as both a historic and live issue, as well as the need to examine the 'cross-border' issue.
- 4.10 As regards Shropshire Council, the first request was made in October 2020. As I have explained in Chapter 1: Background to the Inquiry, Shropshire Council recorded its concern about the request being disproportionate and about the legitimacy of this request as it was concerned about releasing personal data of all licensees where its records did not suggest, even at the lowest level of credibility, any indication of a connection to CSE. For this reason, Shropshire Council instead undertook preparation of a list of taxi, private hire drivers, vehicle proprietors and operators "*where we consider there is or may be a link to CSE/other exploitation*"<sup>16</sup> (the emphasis is mine). Irrespective of the level of confidence in this data, I expressed concern around this as there could be relevant information in the records even where there is no obvious link to CSE and/or exploitation generally. I therefore requested that Shropshire Council provide the Inquiry with a complete list of taxi licences held by Shropshire Council (and its predecessor, Shropshire County Council), dating as far back as 1989, where available. I explained that I wished to cross-refer this list of names with information already held by the Inquiry and, if necessary, I would then make further and more targeted requests for information if there were any individuals of particular interest to the Inquiry.
- 4.11 Shropshire Council has provided the following information to the Inquiry:
- 4.11.1 The first tranche of disclosure involved a manual check of 600 taxi and private hire driver licenses going back to 2013 (which is the date its current licensing IT

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<sup>16</sup> [REDACTED]

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system was implemented) and the records related to matters that had been addressed by officers under delegated decision making powers.

- 4.11.2 The second tranche of disclosure related to drivers where matters were referred to its 'Licensing Panel' for consideration prior to a delegated decision being made by an officer. The records all related to matters considered since 2013 to the current date and where there was an indication of a connection to CSE and/or other exploitation.
  - 4.11.3 The third tranche of disclosure was a list of records relating to vehicle proprietors or private hire operators where the matters were referred to its 'Licensing Panel' for consideration prior to a delegated decision being made by an officer, where there was a potential link to CSE or other exploitation. This again was for the period 2013 to present.
  - 4.11.4 The fourth tranche of disclosure, which was disclosed in March 2022 in response to the Maxwellisation process, was a list of records relating to the above matters, but for the time period from 2009 (the date at which Shropshire Council in its current form came into being) until 2013, when the current IT system was installed. These records had been sourced by carrying out searches of the system used prior to 2013.
  - 4.11.5 In its response to the Maxwellisation process, Shropshire Council also informed the Inquiry that its Records Management Service had confirmed that there were no records in the Shropshire archives relating to licensing records prior to 2009.
- 4.12 In summary, Shropshire Council provided information only from the period of 2009 to present and only where it took the view that the record gave an indication of a connection to CSE or other exploitation. This was in sharp contrast to the initial disclosure request of records of all taxi licensees and related documentation from the period of 1989 to present, receipt of which would have allowed the Inquiry to make its own assessment of relevance.

### **Taxi Licensing**

- 4.13 In order to understand the history of licensing of taxis in Telford, it is first necessary to explain what is meant by a 'taxi'. The term 'taxi' is used interchangeably in everyday life to represent vehicles which are in law known as Private Hire Vehicles and Hackney carriages. There are different licensing provisions for the different classes of vehicles and licences for the various classes confer different rights. In each case a local authority is responsible for granting a licence.

### **Private Hire Vehicles ("PHVs")**

- 4.14 PHVs are regulated under the Local Government (Miscellaneous Provisions) Act 1976. Drivers, vehicles and operators must be licensed. The licensing authority must be satisfied that the applicant driver and operator pass the "fit and proper person" test under that legislation, before a licence is granted.

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- 4.15 PHVs are not allowed to ply for hire - that is, to stop for customers who hail them or to wait at taxi ranks for custom. They must be pre-booked. Their fares are not controlled by the licensing authority and nor is there a requirement for a meter.

### **Hackney carriages**

- 4.16 Hackney carriages are regulated under the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Road Traffic Act 1991, amongst other legislation. Driver and vehicle licences are required, but not an operator licence. Again, for drivers, the "*fit and proper person*" test must be passed.
- 4.17 Hackney carriages are permitted to ply for hire. They are allowed to wait at designated taxi ranks. They operate a fare tariff set by the licensing authority and must run a meter.
- 4.18 There is an overlap, in that Hackney carriages are also able to undertake pre-booked work. Furthermore, that work can begin outside the Hackney carriage's licensed area. In this way, Hackney carriages can operate as PHVs in areas where the local authority has no enforcement powers over them.

### **Licensing in Telford & Wrekin**

- 4.19 Legislation provides that in a local authority operating a Cabinet structure, such as exists in the Council, the Cabinet itself is not to exercise the licensing function with respect to Hackney carriages and PHVs.<sup>17</sup>
- 4.20 The Council therefore delegates this function to its Licensing Committee, which in turn delegates to the Principal Licensing Officer and, in certain circumstances, to a Licensing Sub-Committee. There is a right of appeal against an adverse decision to the magistrates' court and from there to the crown court.
- 4.21 To summarise, the Council's Principal Licensing Officer is the person (as the authorised officer of the Council<sup>18</sup>), in most cases, who is responsible for exercising licensing decisions in relation to PHVs and also for those Hackney carriages which have applied for a licence in its own area. The Council has no enforcement power, however, for those Hackney carriages or PHVs which may be operating legally within the area, but whose licence has been applied for and obtained from a different authority.

### **Issuing of a licence to drive a PHV or Hackney carriage**

- 4.22 As previously noted, the drivers themselves of both PHVs and Hackney carriages (those which fall under the jurisdiction of the local authority), require licences to drive them, which includes satisfying the "*fit and proper person*" test.

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<sup>17</sup> Local Government (Functions and Responsibilities) (England) Regulations 2000 Schedule 1(B)

<sup>18</sup> Local Government (Miscellaneous Provisions) Act 1976 s.48 (4)(a)

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### **Determining suitability of an applicant – pre-2002**

- 4.23 In terms of determining the suitability of applicants, the Council will follow the provisions laid out in its Suitability Policy, of which there have been various iterations over the timescale the Inquiry is tasked with examining. The first of these, I understand, was published in 2004.
- 4.24 At the time when the town was governed by Shropshire County Council, the Inquiry heard that *"there is no knowledge of systems or processes in place for the period 1989 – 1999"*, but that:
- "... there is **some** corporate knowledge of the situation post-1999 but this is limited. At that time, Senior Licensing Officers had regard to the Department for Transport's Circular 2/92 and Home Office Circular 13/92 [(the "Circulars")] on the relevance of convictions when determining taxi driver applications."<sup>19</sup>*
- 4.25 The emphasis in the wording is original. I have seen the Circulars referred to; they are a combined document.<sup>20</sup> The Circulars themselves, as well as the related supplemental guidance (the "Guidance") were issued following the grant of the power in the Road Traffic Act 1991 for local authorities to obtain police national computer ("PNC") checks of applicant drivers.<sup>21</sup>

### **Use of disclosed information**

- 4.26 The Circulars were largely procedural but did set out, firstly, that:
- "In considering applications from potential licence holders authorities should be aware that applicants do not have to reveal, and licensing authorities must not take into account, offences which are spent under the Rehabilitation of Offenders Act 1974..."<sup>22</sup>*
- 4.27 Furthermore, the Circulars noted that the fact that a person has a criminal record or is known to the police does not necessarily preclude them from holding a driver's licence:
- "The authority concerned should make a balanced judgement about a person's suitability taking into account only those offences which are considered relevant to the person's suitability to hold a licence. A person's suitability should be looked at as a whole in the light of all the information available.*
- In deciding the relevance of convictions, authorities will want to bear in mind that offences which took place many years in the past may often have less relevance than recent offences. Similarly, a series of offences over a period of time is more likely to give cause*

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<sup>19</sup> [REDACTED] pg 67

<sup>20</sup> [REDACTED]

<sup>21</sup> Section 47 Road Traffic Act 1991

<sup>22</sup> [REDACTED] pg 4

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*for concern than an isolated minor conviction. In any event the importance of rehabilitation must be weighed against the need to protect the public.*<sup>23</sup>

- 4.28 However, a specific draft policy in respect of sexual offending was also provided in the Circulars, due to the fact that drivers of PHVs and Hackney carriages often carry unaccompanied passengers. This draft policy set out conditions noting that applicants with convictions for serious sexual offences should be refused until they can show a substantial period (of at least three to five years) free of such offences, and that more than one conviction of this kind should preclude consideration for at least five years. It further stated that:

*"In either case, if a licence is granted a strict warning as to future conduct should be issued."*<sup>24</sup>

- 4.29 The obligation of the police to report acquisition of a conviction was dealt with, but the need for information sharing in both directions underlined that:

*"If a police force is able to identify that the holder of a driver licence has acquired a relevant conviction, it will give details to the local nominated officer. This will occur only where the police are aware that a person is licensed under the Act and so will not mean that the nominated officer will automatically get information about all relevant convictions."*<sup>25</sup>

### Frequency of assessing suitability

- 4.30 As to frequency of checks of this information, the Circulars provided that:

*"Checks should not normally be made on persons other than in connection with an application for grant or renewal of a licence. If, however, serious allegations are made against a driver, or previously unrevealed information comes to light and the nominated officer is satisfied that the information cannot be verified in any other way, a police check may be requested."*<sup>26</sup>

- 4.31 It follows, then, that frequency of checks would depend on frequency of renewal, which, for the Council, was (at that time) on a three yearly basis.

### Determining suitability of an applicant – 2002 to date

#### 2002 to 2004

- 4.32 In terms of frequency of licence renewal, the Council changed its policy to a single year licence validity in 2002, remarking that:

*"There were many problems with three year driver licences where drivers moved address and failed to inform the Council, or drivers' medicals and police national computer checks*

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<sup>23</sup> [REDACTED] pg 6  
<sup>24</sup> [REDACTED] pg 11  
<sup>25</sup> [REDACTED] pg 7  
<sup>26</sup> [REDACTED] pg 5



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*expired during the course of the three year licence and although reminder letters were sent to drivers, in many cases they failed to respond.*<sup>27</sup>

4.33 There was also a change in the law in 2002<sup>28</sup> that removed taxi drivers (in the widest sense) from the effects of the Rehabilitation of Offenders Act 1974, meaning that otherwise spent convictions could now legitimately be required and taken into account by a licensing authority, in deciding whether an applicant was a “*fit and proper person*”.

4.34 This is reflected in the Council’s ‘*Guidance relating to the Relevance of Convictions and Cautions: Supplemental to the Home Office guidance on the Relevance of Convictions*’<sup>29</sup> which provided (the emphasis is original):

*“...all convictions must be disclosed, including spent convictions... In addition, applicants must disclose any recent simple cautions they have received or any pending matters... all convictions, spent or live, will be assessed.”*

4.35 I have not seen any evidence that the Council updated its working practices, as opposed to merely its guidance, at that time, as a result of this change in the law. However, the Inquiry understands from the Council that it introduced criminal records checks for all new and renewal applicants from the point that the law changed.<sup>30</sup>

### 2004 to 2009

4.36 The first suitability policy I have seen from the Council, titled ‘*Criteria to be used when determining whether or not to grant, renew, suspend or revoke a private hire driver’s licence or a hackney carriage driver’s licence*’ was said to be introduced in 2004.<sup>31</sup>

4.37 As to the substance of the policy, it declares, in respect of drivers with sexual offence convictions, that:

*“An application will not be considered until a period of 3 years free of conviction is shown and any application with a conviction within this category will be put before the Appeals Panel for determination.”*

4.38 The 2004 Suitability Policy declares that no application for a licence would be considered from an individual convicted of serious sexual offending within three years of the conviction – this is the minimum period contemplated in the Circulars’ draft policy. I am surprised that the minimum term was chosen; the contemporary sentencing guidelines<sup>32</sup> for rape and the release regimes operating in the 1990s<sup>33</sup> and 2000s<sup>34</sup> combine to mean that a person convicted of a rape offence could be eligible to apply for a licence immediately, or very soon

<sup>27</sup> [REDACTED] pg 2

<sup>28</sup> The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 para 5(3)(a)

<sup>29</sup> [REDACTED] pg 4

<sup>30</sup> [REDACTED]  
<sup>31</sup> [REDACTED] pg 67

<sup>32</sup> R v Billam [1986] 1 WLR 349

<sup>33</sup> Criminal Justice Act 1991, section 33

<sup>34</sup> Criminal Justice Act 2003, section 244

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after, release from prison. While I have not seen evidence that there were any such cases, a longer prohibition period would have removed this worrying possibility.

- 4.39 In response to the Maxwellisation process, the Council was keen to stress that the three year period is a proposed minimum term guideline only and that the decision is dependent wholly upon the circumstances of the offending. Further, that it would be impossible for any council to set out a policy dealing with every criminal offence. It reiterated the overriding test in determining whether to grant or renew a licence, which is whether the applicant is "fit and proper".<sup>35</sup>
- 4.40 On 4 October 2005, the Council's General Purposes Board considered a response to the draft 'Best Practice Guidance for Taxi and PHVs', produced by the Department of Transport. This draft guidance suggested that three-year licences were not only the legal maximum period but the "best approach", as annual re-licensing can "impose an undue burden on drivers and licensing authorities alike".<sup>36</sup>
- 4.41 So far as criminal records checks were concerned, the draft guidance noted:
- "A criminal record check is an important safety measure and is widely required. Taxi and PHV drivers can be subject to an Enhanced Disclosure through the Criminal Records Bureau; this level of disclosure includes details of spent convictions and police cautions. In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they will doubtless take a particularly cautious view of any offences involving violence, and especially sexual attack."*<sup>37</sup>
- 4.42 The draft went on to note that PHV operators were not exceptions to the Rehabilitation of Offenders Act 1974, meaning that standard or enhanced disclosures could not be required as a condition of the granting of an operator's licence. A basic disclosure, in which spent convictions were not considered, would be appropriate. However this did not currently exist under the then Criminal Records Bureau ("CRB") scheme, a national scheme whereby checks could be made on the PNC about an individual's criminal history, later replaced by the Disclosure and Barring Service ("DBS").<sup>38</sup>
- 4.43 The Council's conditions of licence for PHVs, for 2002<sup>39</sup> and 2006<sup>40</sup>, are essentially identical. Notably, they oblige a driver to "notify the council of any conviction recorded against him or her by any court within 7 days of such a conviction being imposed," but not to notify of pending proceedings or formal cautions. The 2008 iteration<sup>41</sup> maintains the same formula.
- 4.44 I understand from the Council that, as well as drivers being obliged to notify of pending proceedings, other safety mechanisms are triggered at the time of review of the licence, for example complaints being made against the driver by a third party. A driver charged (both instances of underlining are mine) with a sexual offence, for example, would not be

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35 [REDACTED]  
36 [REDACTED] pg 10  
37 [REDACTED] pg 10  
38 [REDACTED] pgs 12-13  
39 [REDACTED] pg 4  
40 [REDACTED] pg 5  
41 [REDACTED] pg 4

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deemed fit and proper to hold a licence and would therefore have their licence revoked. The Council continues to adopt this approach, which I understand is standard practice across licensing authorities.<sup>42</sup>

### 2009 to 2011

4.45 The Council's policy was redrafted, retitled and expanded in 2009 as *'Policy for Determining the Grant, Renewal, Suspension, or Revocation of a Private Hire Operator Licence, a Private Hire, Dual or Hackney Carriage Driver/Vehicle Licence with Relevance to Convictions'*.<sup>43</sup> It included a list of new sexual offences under the Sexual Offences Act 2003. The direction for consideration of sexual offences was also changed: *"Any application with a conviction within this category will automatically be put before the Council's Licensing Committee for determination"*, with the reference to a conviction-free period now being the more generic:

*"Each case will be judged on its merits. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained."*

4.46 In 2010, the Local Authority Coordinators of Regulatory Services ("LACORS") published a template convictions policy<sup>44</sup> and the Council responded with a policy based upon it titled *'Taxi and PHV Licensing Criminal Convictions Policy'*<sup>45</sup>; there was for the first time specific guidance as to spent convictions and the approach to outstanding matters.

4.47 It noted that The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allowed the Council to take into account all convictions recorded, whether spent or not and that:

*"... the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending..."*

4.47.1 Furthermore that:

*"If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. If the outstanding charge or summons involves a serious offence and the individual's conviction history (including 'spent' convictions) indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the application may be refused."*

*If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include violent offences and sex offences."*

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4.48 This policy made clear that the Council conducted enhanced CRB checks for any driver applicant. An enhanced check details spent convictions and non-conviction resolutions, such as cautions. The foundation for this level of check was the Council's contention that all drivers could potentially be asked to undertake regulated activities (such as transporting schoolchildren); there was no contrary view expressed by drivers.<sup>46</sup> I understand that these enhanced CRB checks were used by the Council to ascertain information which may be relevant in cases which had fallen short of a conviction.<sup>47</sup>

4.49 As to the expectation of a conviction-free period, this was part of a generic introduction again, but framed in this way:

*"A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:*

(a) *Remain free of conviction for an appropriate period; and*

(b) *Show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). (Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence)."*<sup>48</sup>

4.50 In terms of serious sexual offences, the policy provided:

*"Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as rape, assault by penetration, offences involving children or vulnerable adults or any similar offences (including attempted or conspiracy to commit) offences which replace the above.*

*In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register."*<sup>49</sup>

4.51 As to other sexual offences, the text of the Circulars' proforma – recommending a three to five year conviction-free period – was now incorporated as part of the body of the document as policy, rather than as a quote. It read:

*"... as hackney carriage and private hire vehicle drivers often carry unaccompanied passengers including schoolchildren and adults with learning disabilities, application with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years, free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued."*<sup>50</sup>

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48 pg 2  
49 pg 9  
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4.52 The Council therefore did not adopt the more detailed suggestion and longer quarantine period set out by LACORS, which essentially stated that an applicant should have been free of conviction for at least ten years (or at least three years must have passed since the completion of the sentence, whichever was longer) for a number of sexual offences, which included sexual assault, exploitation of prostitution and trafficking for sexual exploitation. There was also a lesser period of time, at least three years since conviction (or completion of the sentence, whichever was longer), for offences including, but not limited to, indecent exposure and soliciting ('kerb crawling').<sup>51</sup>

4.53 The Council informed the Inquiry in its response to Maxwellisation that:

*"... unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as rape, assault by penetration, offences involving children or vulnerable adults or any similar offences..."*<sup>52</sup>

### 2011 to 2016

4.54 In 2011, there were changes relating to criminal conviction checks.

4.55 First, following a submission made by a number of local taxi firms, together known as the Telford Private Hire Association, that an operator was not exempted from the operation of the Rehabilitation of Offenders Act 1975 and a review of the national position in light of this,<sup>53</sup> the Council accepted it would no longer require CRB checks<sup>54</sup> (this had been foreshadowed in 2005; "basic" checks were still not available).

4.56 Second, the CRB ended the practice of providing enhanced CRB checks for taxi drivers, this now only being required for drivers who transported children on a regular basis. The Council – after some disquiet<sup>55</sup> – reviewed its policy (published only the previous year) in December 2011, which now dropped the use of the word "enhanced" in relation to criminal records checking, substituted "DBS" for "CRB"<sup>56</sup> and relied on applicants to volunteer the detail that would otherwise have been provided by the enhanced check.

4.57 The DBS reversed its predecessor's position on driver checks in short order; and Disclosure Scotland began to offer basic checks under a delegation from the DBS. A version of the policy, titled 'Licensing Policy: Hackney Carriage and Private Hire', dated August 2012<sup>57</sup> stated:

*"... criminal record disclosures will be required at the maximum level set by legislation... This is currently a basic disclosure for Private Hire Operators and an enhanced disclosure for Private Hire and Hackney Carriage Drivers."*

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51 [REDACTED] pg 7  
52 [REDACTED]  
53 [REDACTED]  
54 [REDACTED] pg 1  
55 [REDACTED]  
56 [REDACTED]  
57 [REDACTED]

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- 4.58 The version of the Council's 'Criminal Convictions Policy' issued in October 2013<sup>58</sup> obliged drivers to notify the Council in writing of any conviction, caution or charge recorded against them, within seven days of its imposition. This was despite the fact that a change in law in 2013 meant that some previous offending history could now be filtered out, specifically protected cautions (for some offences) which were spent (more than six years since they were received).<sup>59</sup>

### 2016 to 2020

- 4.59 In 2016, the Council's draft Criminal Convictions Policy was circulated with proposed changes – in particular, to increase the conviction-free period for sexual offences. A comment on the document says:<sup>60</sup>

*"The policies adopted by English councils tend to be similar to each other because they were all based on the Home Office Circular issued in 1992. There is widespread recognition now that the Circular's references to sexual misconduct are excessively lenient. It is therefore proposed to increase the period free of conviction from 3 to 5 years to 5 to 10 years."*

- 4.60 Presumably some English councils had chosen to adopt the LACORS wording – which provided for a longer conviction-free period and a more offence-sensitive approach than this draft – when the Council had chosen not to in 2010.

- 4.61 It was further recommended in the policy that the wording relating to an applicant who had previous convictions for rape or serious sexual offences, or is on the sex offenders' register, be amended so as to change the "would not normally" formulation to a discretion to license in "exceptional circumstances".<sup>61</sup>

- 4.62 The policy, when published in April 2017,<sup>62</sup> showed significant differences from the draft. The effect was to make the policy more stringent. The conviction-free period expected in sexual offences was significantly increased (to ten years) and, while the discretion to licence rape-convicted applicants was retained, the discretion to license sex offender registrants in exceptional circumstances was not included: the formulation "the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register" was adopted. The obligation on drivers to report potentially adverse matters<sup>63</sup> was comprehensive:

*"The Licence holder shall notify the Council in writing of any conviction, caution, warning or charge recorded against him/her by any Authority within 7 days of such a conviction, caution or charge being imposed."*<sup>64</sup>

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58 [REDACTED]  
59 [REDACTED]  
60 [REDACTED] pg 15  
61 [REDACTED]  
62 [REDACTED]  
63 [REDACTED]  
64 [REDACTED] pg 6

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### 2020 to date

4.63 The policy dated 1 January 2020, titled '*Taxi (Hackney Carriage) and Private Hire Licensing Policy for Determining the Suitability of a Person to hold a Licence*'<sup>65</sup> reflected guidance published by the Institute of Licensing and made a number of changes:

4.63.1 First, it prefaced the guidance with the following: "*Whilst officers and the licensing committee will have regard to the policy and in some cases this policy says "never", each case will be considered on its individual merits*".

4.63.2 Second, notwithstanding that it declared that convictions that would prevent a licence being issued, it included:

#### "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 exploitation, criminal exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.*

#### 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. This will apply to any applicant who is currently on the Sex Offenders Register or on any 'barred' list."*

4.64 In July 2020, the Department for Transport published '*Statutory Standards for Taxi and Private Hire Vehicles*'.<sup>66</sup> It said:

*"The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles."*

4.65 It also set out a number of principles and recommendations to which a licensing authority must have regard in exercising their functions, specifically drawing on the Institute of Licensing report. The recommendations matched the formulations adopted by the Council in its most recent policy – which had itself been based on the Institute of Licensing

<sup>65</sup> [REDACTED]

<sup>66</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf)

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recommendations. The Council's most recent policy reflected changes made to immigration offences and an updated section on in-car CCTV.<sup>67</sup>

4.66 I have focused this analysis on the Council's approach to character thus far; but in its assessment of what is a "*fit and proper person*" it is open to a licensing authority to impose conditions. These very commonly include:

4.66.1 A topographic knowledge examination;

4.66.2 A medical check; and

4.66.3 A driving standards check.

### ***Training for taxi drivers***

4.67 In 2015, the Council introduced compulsory CSE awareness training for all new and renewing drivers as part of a system of training that had been in place on general matters since 2011.<sup>68</sup> Initially the CSE training was delivered by a member of the Licensing Team and, later, by amending the pre-existing PowerPoint presentation.<sup>69</sup> The training slides read:

*"Child Sexual Exploitation (CSE)*

*Signs to look out for and what to do*

- *Taking/collecting young people (girls and boys) from hotels/B&B's/house parties*
- *Picking up young people from other cars*
- *Young people who look distressed or intimidated*
- *Observing suspicious activity in hot-spot areas*
- *Young people under the influence of drugs and/or alcohol*
- *Attempts by young women to avoid paying fares in return for sexual favours*
- *Regular males requesting taxi rides to and from locations - taking young people with them*
- *Taking young people to A&E [(Accident & Emergency)], who are not in the presence of parents*
- *Young people with injuries such as bruising or blood stains*

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<sup>67</sup>  
<sup>68</sup>  
<sup>69</sup>



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### What to do:

- *Make notes about the information you know*
- *Call the police non-emergency number 101 to report your concerns about possible sexual exploitation*

### Information to share:

- *Names*
- *Locations and addresses of concerns*
- *Descriptions of people*
- *Car registration plates, makes and models of vehicles*
- *Description of concerning activity."*

4.68 Subsequent versions of the training gave prominence to signs that a child may be involved in drug crime<sup>70</sup> and the 2019 version strongly encouraged drivers to "seek advice from your Operator's Safeguarding Officer," as an alternative to dialling 101.<sup>71</sup>

4.69 The statutory standards of July 2020,<sup>72</sup> to which I have referred with regard to the Convictions Policy, also dealt with training of drivers, noting at paragraphs 6.5 and 6.6:

*"Licensing authorities should consider the role that those in the taxi and private hire vehicle 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.*

*All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. 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*

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<sup>70</sup> [REDACTED] pgs 26-27

<sup>71</sup> [REDACTED] pg 28

<sup>72</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf)

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- *understand how to respond, including how to report safeguarding concerns and where to get advice."*

4.70 It seems to me that the Council's training programme had covered these issues since 2015: whilst this is to be commended, there was clearly scope for such training to be introduced earlier than 2015, given Telford's history of CSE and concerns about children in taxis. Further, training is only required of those who actually apply for licences, and this does not address the issue of unlicensed drivers and in particular 'badge swapping', which I will address later in this chapter.<sup>73</sup>

### **Power to attach conditions to the licence**

4.71 As noted initially, as well as licensing drivers and operators, the Council has an obligation to ensure suitability of vehicles. So far as Hackney carriages and PHVs are concerned, the Council has the power to attach to the grant of a licence any condition it requires reasonably necessary.<sup>74</sup>

4.72 The Inquiry asked the Council of any changes it had made to licensing requirements as a result of safeguarding and CSE; and the Council replied by referring to the "*tinted windows policy*".<sup>75</sup>

### **Tinted windows policy**

4.73 The potential danger to an occupant arising from a window being tinted to the extent that an outsider is unable to see into the car, is an obvious one. The Inquiry understands that in 2002, conditions were applied by the Council to applicants for vehicle licences, which required that:

*"... the Council shall refuse any vehicle submitted for licensing which has been equipped with production line manufactured or retro-fitted blacked out windscreens and/or windows. Standard tinted windscreens and windows are acceptable providing all occupants in the vehicle can be clearly seen from the outside with the doors closed and the windows up."*

4.74 It is not clear what concerns led to the adoption of this condition although general witness and victim/survivor accounts speak of children being carried in taxis by perpetrators in the early 2000s<sup>76</sup>; the condition was varied between 2002 and 2006 to provide that:

*"The Council shall refuse any vehicle submitted for licence which is fitted with windows to the rear of the driver and which allow less than 60% of light to be transmitted through them."*

4.75 Presumably, this was a stricter requirement than previously because the allowance was made that:

<sup>73</sup> [REDACTED] pg 11, [REDACTED] pg 19

<sup>74</sup> Ss.47, 48 Local Government (Miscellaneous Provisions) Act 1976

<sup>75</sup> [REDACTED] pg 71

<sup>76</sup> [REDACTED] pg 14, [REDACTED] pg 75, [REDACTED] pg 4

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*"Vehicles which are currently licensed and fitted with windows to the rear of the driver which allow more than 45% of light to be transmitted through them, will remain licensed for a maximum period of 12 months from the date of the introduction of this condition."*

4.76 Despite the allowance, this was not uncontroversial. The Council states in its evidence that:

*"This condition was proactively enforced by the Principal Licensing Officer at that time. The enforcement of this condition became an issue with the trade and was a factor leading to allegations of racism against the Licensing Team made by the local taxi trade."*<sup>77</sup>

4.77 In 2008, the requirement was modified:

*"The Council shall refuse any vehicle submitted for licence which is fitted with tinted windows to the rear of the driver which are not factory fitted options at the time of the manufacture of the vehicle."*<sup>78</sup>

4.78 In 2016, however, the Council reported that:<sup>79</sup>

*"... it became apparent that factory fitted tinted windows were becoming darker and more common in vehicles. As a result of a) an incident reported by the Street Pastors and b) licensing officers noticing that vehicles submitted for inspection had rear windows which did not allow officers to see passengers inside the vehicle but which were compliant, the Principal Licensing Officer and the Public Protection Manager initiated a review of the condition as it was no longer considered fit for purpose. Research on levels of tint was carried out and the trade was consulted with. A report was submitted to the Licensing Committee with the following draft condition which was approved by Members and introduced on 1<sup>st</sup> July 2017:*

*'Any vehicle submitted for licence which is fitted with tinted windows must have windows which are factory fitted options at the time of the manufacture of the vehicle; and*

*The vehicle shall be constructed and/or designed so as to enable passengers to be seen in the vehicle from any direction when observed from outside of the vehicle; and*

*Glass shall have a minimum light transmittance of 75% for the front windscreen, 70% for the front side windows and 34% for all other vehicle window glass'."*

4.79 The new standard was more onerous than that which had caused controversy in the mid-2000s (34% transmittance as opposed to "windows which allow less than 60% of light to be transmitted" or 40% transmittance) though, various sources suggest, lighter than much manufacturer-fitted "privacy glass". While I have no evidence to compare the Council's approach to tinted window conditions to that of other local authorities, it certainly seems to me to have been proactive at a time of concern about children in taxis notwithstanding

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<sup>77</sup> [REDACTED] pg 76

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<sup>79</sup> [REDACTED] pg 77

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the difficulties the stance caused with the trade. It is also right to note that the Council remained resolute over the years in its commitment to the tinted window condition.

### CCTV scheme

4.80 Another measure, which has been mentioned as a potentially useful tool in helping to address the CSE situation locally,<sup>80</sup> is the implementation of CCTV in taxis.

4.81 In 2010, the Council published a policy on CCTV in taxis.<sup>81</sup> I have read evidence that this related to an emerging scheme by the Council to supply CCTV equipment to operators and drivers. Operators and drivers would own the systems, but the Council would retain rights to the recordings.

4.82 A witness told the Inquiry that the CCTV scheme failed, noting that:

*"... they had a scheme where they put CCTV cameras in private hire vehicles... that caused a lot of a problem because when they were going [to] download the information from the hard drive inside the car, then they were reviewing it back at the office. They were having the drivers for every little infraction, so the drivers then got really pee'd off because they were, like, they felt that that information was being used to spy on them rather than to protect them. So they ripped it all out, and they haven't had it since."<sup>82</sup>*

4.83 Nevertheless, they were positive about a revival:

*"I know it's something that [a member of the team] has been looking into about encouraging, and I know [a provider] has been quite supportive on getting CCTV back in vehicles. My only input is that the data is used correctly, not as a stick to beat the drivers..., I mean I think we'd have to be the data controller, but only use the data in serious incidences where there are serious allegations, either to prove the driver innocent or to convict a driver. We shouldn't be looking at it and, yes, if I catch a driver smoking in his cab I'm gonna tell him off. If I catch him, you know, but not use the CCTV as a stick. Use it correctly. That's, you know, the way it's meant to be and have a little bit of respect for the drivers, and not use it in the way that it was used before, 'cause I think it was incorrectly used before. I think it's, they were a little bit overenthusiastic about having the drivers for doing things wrong, which wasn't what it was all about. It was about protecting the drivers as well as protecting the public..."<sup>83</sup>*

4.84 Perhaps reflecting this renewed enthusiasm by the Council and an operator, the policy was updated in April 2021.<sup>84</sup> CCTV would not be mandatory under the new scheme, and ownership of images would remain with the Council as before.

4.85 In response to the Maxwellisation process, the Council stated that:<sup>85</sup>

<sup>80</sup> [REDACTED] pg 11, [REDACTED] pg 13

<sup>81</sup> [REDACTED]

<sup>82</sup> [REDACTED] pg 114

<sup>83</sup> [REDACTED] pg 114

<sup>84</sup> [REDACTED]

<sup>85</sup> [REDACTED]

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- 4.85.1 It is very supportive of mandatory CCTV usage in taxis (in the widest sense). It is of the view, however, that due to cross-border licensing and the lack of legislation to mandate the use of CCTV, the mandating of CCTV in a particular authority area would simply serve to drive applicants to those authorities who do not have such a requirement whilst still being able to operate within the borough.
- 4.85.2 It considers a voluntary scheme of CCTV is more appropriate and that, by working with the taxi trade, it can encourage drivers to see that CCTV serves a dual purpose by protecting both passengers and drivers.
- 4.85.3 It considers there are real issues around the practicalities and legalities of CCTV operating in taxis, noting that if the equipment is provided and used by the Council, the Council would be the data controller for the purpose of data protection legislation.
- 4.85.4 The Local Government Association has published a document 'Developing an approach to mandatory CCTV in taxis and PHVs', which states "... the code is clear that a mandatory policy around CCTV systems in taxis will require strong justification...".
- 4.85.5 That the Department for Transport's 2010 guidance suggested that local authorities encourage rather than mandate CCTV use.
- 4.86 I understand from the Council that the Local Government Association is undertaking a consultation on CCTV use in taxis and the Council will be providing a response to that consultation; I have not seen a copy of the proposed response or of a draft, however. I do consider the early adoption of a Council-run taxi CCTV scheme was a positive step and it is a matter of regret that the apparent dispute between licensing and the trade over the use to which the product should be put was not overcome.

### **Sources of Information**

- 4.87 In terms of where the Council sources the information which is used to determine the outcome of licence applications, in its Corporate Submission to the Inquiry the Council stated that it:

*"... will also undertake checks on its Personal Safety Precautions Register, a register that is used to inform risk assessments when officers are engaging with/visiting individuals with individuals' details being added to the register based upon intelligence provided by officers (through their dealings with members of the public) and other agencies such as West Mercia Police."*<sup>86</sup>

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<sup>86</sup> [REDACTED]

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### Personal Safety Precautions Register

- 4.88 Asked for further detail about the Personal Safety Precautions Register, or "PSP Register", the Council replied:<sup>87</sup>

*"The PSP Register was originally introduced in 2003 and was updated for an electronic version in 2006. This is primarily used as a risk management tool to help keep Council officers and Members safe in their work. The owner of the PSP Register is the Health & Safety team.*

*Information can be added to the PSP Register by any officers within the Council, provided that the information is of a nature that meets the criteria for inclusion. Where an officer feels that a person behaves in a way which could pose a significant threat of physical or mental harm, then they can make a request to the Health & Safety team for an entry to be made on the register. The Health & Safety team then assess the information and decide whether or not it is appropriate for an entry to be made on the register. Nominated officers throughout the Council have access to the Register to enable it to be searched for relevant information. This includes members of the Licensing Team. If any adverse information is identified which would mean that granting a licence was contrary to the Council's Licensing Policy, then this would be processed in the usual way; this could mean that it would be referred to the Licensing Sub-Committee for consideration or decided under delegated powers by officers, dependent upon the circumstances.*

*The information obtained through PSP Register check would be added to information obtained from other sources, so that a view could be formed as to the suitability, or otherwise, of the individual applying for a licence.*

*The members of the Licensing Team who have access to the PSP Register include Licensing Technical Officers, Licensing Enforcement/Night-time economy officers, Principal Licensing Officer and those who interact with members of the public, applicants and businesses."*

- 4.89 A curiosity, given the existence of the PSP Register since 2003, was the Council's offering that: *"The [Licensing] team has been undertaking checks of the PSP register since 2017."*

- 4.90 When asked for further information regarding this last statement, the Council clarified that it was decided, following the review by the Council's Children & Young People Scrutiny Committee in 2016, (the "Scrutiny Review"), and the resultant internal review of practices, *"that the PSP Register was a source of information that may inform the decision-making process for taxi applications and has been used since".*<sup>88</sup>

- 4.91 The Council further acknowledged that *"the PSP Register has limitations ... [and] ... it does not, and cannot, capture intelligence based upon all people living and working within the Borough"*<sup>89</sup>. It also noted that:

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<sup>87</sup> [REDACTED] pg 71

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"... taken on its own, the information contained in the Register would not be sufficient to enable the licensing authority to make decisions concerning the fitness and propriety of applicants. It's [sic] value comes in enabling the authority to consider the weight of other evidence that might be provided to it".<sup>90</sup>

- 4.92 While I understand and accept that PSP information would not be the only information needed for a licensing decision, I fail to understand why the resource was not used in licensing decisions for over a decade after its inception.

### Safeguarding services

- 4.93 An obvious further source of relevant information is the Council's Safeguarding service. The Council told the Inquiry:<sup>91</sup>

"Corporate knowledge indicates that, from at least 2009, the Principal Licensing Officer has been invited to attend LADO meetings where they have involved a Telford and Wrekin licensed driver with any appropriate action identified by the LADO being implemented by the Licensing Team as required. Even where the LADO meeting results in no further action being required, the Licensing Team will take steps they consider appropriate to ensure the suitability of a driver."

- 4.94 It offered this example of how the system worked and what actions would ensue:

"... following a report to the Safeguarding team of injury to a child, the Safeguarding investigation concluded that there was no wrongdoing on the part of the driver and so no action was required. However, a comment was also made that the driver was related to a CSE perpetrator. The enhanced DBS check in respect of the driver came back clear of any convictions or other relevant information disclosed at the discretion of the Chief Police Officer's discretion. Further proactive enquiries were made by the Licensing Team with West Mercia Police to ask if there were any known links, concerns or intelligence which indicated that the applicant was connected to CSE. West Mercia Police confirmed that there was no indication of additional risks and no links to CSE."

- 4.95 The Council's original Corporate Submission also noted:

"The Council has also more recently developed a process by which checks are made of records held by the Council's Independent Safeguarding team on the Council's Protocol system for details relevant to any applicants and, in the event of any investigation of concerns, in respect of existing drivers."<sup>92</sup>

- 4.96 As to what "more recently" meant, the answer came:

"The Licensing Team originally made enquiries to see if [it] was possible to access information that may be relevant to new driver applications in or around 2012/13 but, due to concerns about whether or not it was possible to share such information for such

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<sup>90</sup> [REDACTED] pg 73  
<sup>90</sup> [REDACTED] pg 64  
<sup>92</sup> [REDACTED] pgs 72-73

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*purposes, this did not come to fruition. From 2015, information sharing took place between Safeguarding and the Principal Licensing Officer where there were specific incidents or information disclosed to Safeguarding. Checks in respect of new/renewal applications, it is believed that this commenced in or around 2018/19.”<sup>93</sup>*

- 4.97 Documents have shown that there was licensing/public protection membership of the Local Safeguarding Children’s Board (“LSCB”) in the mid-2000s,<sup>94</sup> when there was discussion about CRB checks for taxi drivers, and from 2015,<sup>95</sup> where there were regular updates about delivering training for taxi drivers and PHV operators.
- 4.98 In response to the Maxwellisation process and, in particular, my finding that concerns about data protection legislation hampered essential information sharing, the Council accepted that there was some concern around data sharing, but stated that this was due to constraints around the legislative provisions relating to data collection and data use.<sup>96</sup>
- 4.99 To me, this tended to suggest that nervousness about non-Safeguarding access to Protocol and data sharing in general was not confined to the activities of the Children Abused Through Exploitation (“CATE”) team. I have been assured in this regard that these checks would instead be made with the Safeguarding team and that information sharing practices have improved since this time, as evidenced in changes made by the Council following the Scrutiny Review.<sup>97</sup>
- 4.100 It seems to me, though, that there should be a routine request for relevant information held by Safeguarding in every new application and renewal, and that the request should be according to a published protocol. Furthermore, all involved – Safeguarding/CATE practitioners and licensing officers – should be trained to understand not just the ‘constraints’ of data sharing but the circumstances in which the legislative provisions allow data sharing, so that when it is right to share data, the sharing is done confidently and without delay.

### Other authorities

- 4.101 The Council has indicated that where an applicant discloses a previous licensing history with another authority, it will routinely make checks with that authority. Additionally, in 2015 a specific information sharing agreement was put in place between the Council and Shropshire Council.<sup>98</sup> It provides that information will be shared to “*safeguard the public, particularly children and vulnerable adults*”, and will include:

*“All relevant evidence, information and intelligence to assess the fitness of an applicant to hold a hackney carriage/Private Hire drivers licence including:*

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93 [REDACTED] pgs 72-73  
94 [REDACTED] pgs 6-8  
95 [REDACTED]  
96 [REDACTED]  
97 [REDACTED]  
98 [REDACTED]



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*The applicant/driver's history (e.g. complaints and positive comments from the public, compliance with licence conditions and willingness to co-operate with licensing officers) whilst holding a licence from the Council or any other authority.*

*Patterns of behaviour, irrespective of time-scale over which they have occurred, in terms of proven offences and other behaviour/conduct that may indicate the safety and welfare of the public may be at risk from the applicant/driver."*

- 4.102 The information sharing will take place when new applications and renewals are being considered and when new information is received which may be relevant to the review of an existing licence.
- 4.103 In 2018, the Local Government Association launched a national register of taxi and PHV refusals and revocations known as "NR3".<sup>99</sup> The register is open to local authorities who are members of the National Anti-Fraud Network at no cost; it is a subscription service for others. The register does not provide full details but allows local authorities to contact the previously licensing (or refusing) authority to find out further details of an applicant. The Council signed up to NR3 on 23 September 2019.<sup>100</sup>

### **Relationship with the trade**

- 4.104 In considering the taxi business generally I have considered the information I have seen as to the relations between the Council and the trade.
- 4.105 The Inquiry understands from evidence relating to the Licensing Team in the 2000s that a team member left the team because of threats from taxi operators and damage to his personal property.<sup>101</sup> Furthermore, evidence has been given to the Inquiry that the then Chief Executive was openly unimpressed by the taxi trade in Telford and gave instructions that they should be "*brought into line*".<sup>102</sup> As a result, licensing enforcement involving random stops for vehicle condition checks began on Friday and Saturday nights, at increased frequency,<sup>103</sup> in association with WMP. Many construction and use infractions could have resulted in WMP issuing fixed penalty notices, but the team chose simply to warn drivers - an approach which, in itself, I do not criticise - so as to maintain a cordial relationship.
- 4.106 I have seen a memo dated 13 April 2005,<sup>104</sup> which relays information being received<sup>104</sup> from a licensed operator that a body called the "*Ethnic Minorities Drivers Association*" had been created on the instructions of two licensed operators and a driver. The informant indicated that the group was "*out to get*" a member of the Council's Licensing Team.

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<sup>99</sup> <https://www.local.gov.uk/topics/licences-regulations-and-trading-standards/national-register-taxi-and-private-hire-licence>

<sup>100</sup> [REDACTED]  
<sup>101</sup> [REDACTED] pg 18  
<sup>102</sup> [REDACTED] pg 19  
<sup>103</sup> [REDACTED] pg 9  
<sup>104</sup> [REDACTED]

## Independent Inquiry Telford Child Sexual Exploitation

4.107 On 8 November 2005 the General Purposes Board considered<sup>105</sup> a complaint made against an operator that a driver had abandoned three “young females” in an unlit layby at night, following a dispute about payment of a deposit. The operators were issued a severe warning as to their procedures in relation to communication of deposit payments and complaints handling. It was noted that on 6 March 2006 the General Purposes Board’s concerns had not been rectified, and the operator appeared before the General Purposes Board again in April 2006 in respect of a separate complaint.<sup>106</sup>

4.108 On 12 May 2006 the Council received, through the Chief Executive and others, an email headed “Asian private hire drivers meeting”.<sup>107</sup> I have seen information that certain operators’ drivers had rallied others to attend the meeting.<sup>108</sup> The email said:

*“As you are probably aware, Asian Private Hire drivers met with council representatives on Tuesday evening to discuss growing concerns and policy changes made by the licensing dept. over the last couple of years, and how they impacted, in particular on Asian Drivers.”*<sup>109</sup>

*The meeting went very well and drivers went away in positive frame of mind, believing real action was going to be taking place through a series of meeting which were to be setup (the next meeting being in two weeks time) ...*

*Yesterday evening, the licensing dept. carried out one of their stop and search checks of privet [sic] hire drivers. The result of this was constant phone calls to me; these are some of the comments (I began to write them down after I received the first few):*

*‘Who is controlling who, obviously [a member of the Licensing Team] makes the decisions, the meeting was a waste of time, because the very next day we have licensing doing exactly all those things we want sorting out, what a waste of time’*

*‘I was disappointed, we went to the council with good faith, and I thought things were going to get done, but nothing, same old council making promises they can’t keep’*

*‘It’s your fault [name] getting us to go to the council meeting, when you knew, that we would be targeted the very next for speaking our minds, thank you very much’*

*‘What’s going on, surely licensing should have waited for the next meeting, not try to make a point the next day and intimidate us, I think they are trying to stop us attending any further meetings’*

*‘As I said at the meeting, [a Licensing Team member] is in control, he makes the rules, and he is a [racist]’*

*I was amazed and gob-smacked, that after all that was said and done at the meeting, that Licensing could not wait to be out there the very next day, showing private hire drivers who*

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pgs 1-2

## Independent Inquiry Telford Child Sexual Exploitation

*was in charge and thus nothing had changed in this regard. They knew when the meeting was happening and could have at least waited until the next meeting before carrying out such an exercise. We have once again lost driver trust, and the good work that went into bringing people together, allowing them to express their view; this has now been destroyed. [Name] at the meeting pointed out very clearly, that drivers had come to the meeting in good faith and that we need to make sure that there was no backlash from licensing.*

*The Council, I am sorry to say, is getting accused of being racist towards Asian drivers, words I hate hearing and saying for that matter, especially when I have personally spent several years working to build peoples confidence in T&W Council. I also feel that I have wasted my time and effort in bringing people together; which now makes the next phase of this process even harder.*

*The bottom line is, you have one single concern (expressed over and over again), and this was expressed quite openly at the meeting, [a member of the Licensing Team]. This name keeps coming up again and again; private hire drivers are not happy, particularly Asian drivers, they see him as loose cannon. The negative impact of this one individual on T&W is beginning to be a tremendous one.*

*I don't know where we will be taking this now; but certainly, T&W needs to start doing some joint [sic] up thinking; whilst [others] work tirelessly to tackle race, equality and diversity issues and bring communities together, you have other dept's within the council destroying it."*

- 4.109 At 06:42 the next morning a Cabinet Member wrote to the then Corporate Director thus (the emphasis is original):<sup>110</sup>

**"I firmly believe that we should now instruct [the Licensing Team] to suspend further operations until the meeting you and I have agreed has taken place.**

*This meeting needs to take place next week involving as many as the key players as possible."*

- 4.110 The Chief Executive replied formally to the original complaint later that day:<sup>111</sup>

*"I have had the opportunity to read your email and having spoken to [an elected member], we have decided that the most appropriate way to deal with the issues you have raised is to hold an independent investigation.*

*Both [they] and I take the allegations in your email very seriously and given the sensitivity of the issues believe that all the parties concerned should agree who the 'independent investigator' should be. It is essential that the investigation commences as soon as possible and I will be giving some thought to the remit of the investigation as well as who could be appointed to conduct it.*

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<sup>110</sup> [REDACTED] pg 1  
<sup>111</sup> [REDACTED]

## Independent Inquiry Telford Child Sexual Exploitation

*Whilst agreement on who will lead this investigation is being finalised, there will be no further discussion about the allegations until everyone can be interviewed by the independent investigator."*

- 4.111 In May 2006,<sup>112</sup> members of the Licensing Team received an internal communication from a colleague, expressing their concern that the matters dealt with against the particular operator in November 2005 and April 2006 had not been resolved; they said:

*"Since dealing with [the operator] it is obvious that there are a number of dangers to staff. This has become even more apparent in the past week. Besides the threat to the property and personal safety of Licensing staff, there is now the added worry of being accused of acting in a racist manner."*

- 4.112 Within the hour, a member of the Council's Legal Services team<sup>113</sup> was contacted for advice in relation to this matter:

*"With reference to [name]'s email, I am very conscious that a week has passed since [we were told]... there was going to be an independent enquiry into complaints of racism being made against the Licensing Team. To date we have received no detailed information about the complaints that have been made or about any independent enquiry.*

*I suspect that [the Operator] may well be orchestrating the complaints and have to decide what action, if any, we need to take in relation to the issues raised by [the email].*

*I take the view that we should check that the proper systems are now in place at [the Operator]. In other words that we carry with our enforcement role.*

*I would be grateful if I could have some written guidance as to what the complaints against the Team consist of, whether an investigation of some kind is going to take place and if so what it's terms of reference are. I would also like some written guidance on what we do as far as the issues raised... in relation to [the operator] are concerned."*

- 4.113 Later that day an unlinked email to the Chief Executive<sup>114</sup> set out this query received:

*"I have just been contacted by [an elected member] asking if the next planned taxi stop and check event on 13<sup>th</sup> June is to go ahead. One of his staffed [sic] has asked the question of him because of the police producing a critical incident plan following the issues that have been raised by the community."*

- 4.114 And offered this solution:

*"I would suggest we halt any proposed action but don't publicise this."*

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<sup>112</sup> [redacted] pg 1  
<sup>113</sup> [redacted]  
<sup>114</sup> [redacted]

## Independent Inquiry Telford Child Sexual Exploitation

- 4.115 This suggestion – which seems to me to have been the worst of all worlds – happily did not cut any ice; the Chief Executive wrote to the original complainant the same day:<sup>115</sup>

*"You have made some very serious, possibly criminal allegations against Council staff. The Leader and I are taking this very seriously. In the circumstances the Leader and I decided on Friday to arrange for these matters to be independently investigated. We want this investigation conducted both thoroughly and quickly and in a way that is focused on the allegations as referenced in your letter. It is not our intention that the investigation is broadened, It will be a matter for the independent investigator to decide (within the framework of the terms of reference) how to conduct the investigation and who needs to be spoken to.*

*In order to assist the investigation and to avoid the risk of subsequent misrepresentation I have asked all Council staff and Members to suspend any current or planned activities or meetings in relation to these matters until the investigation is completed."*

- 4.116 Enforcement was shut down completely, pending the report of an independent inquiry.<sup>116</sup> This quickly caused concern among the Licensing Team<sup>117</sup> and Legal Services<sup>118</sup>; an example was given of an enforcement officer being unwilling to proceed, without direct management advice, against a PHV driver who had refused to accept a written warning for an obvious driving infraction on 11 May 2006. In another example, when a taxi driver was charged with battery against his partner, Licensing again sought advice from the Council's Legal Services:

*"I would normally speak to [the driver] and based on his account of what happened and any charges, etc decide whether or not his licence should be suspended. What should I do now?"<sup>119</sup>*

- 4.117 In June 2006 an elected member of the Council expressed concern that complaints were not being acted upon;<sup>120</sup> in July a member of the Licensing Team sought permission to deal with 11 outstanding enforcement cases, including suggestions of inappropriate behaviour with children.<sup>121</sup> It is not apparent whether permission was given.

- 4.118 The external investigation report was published in September 2006.<sup>122</sup> It recognised that:

*"... on a number of occasions the impact of enforcement activity has disproportionately affected Asian drivers... several reasons have been put forward to explain the disproportionate impact. Although we believe there is merit in these reasons the absence of full and comprehensive information relating to these enforcement activities leaves the*

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119 pg 1  
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122 pg 4

## Independent Inquiry Telford Child Sexual Exploitation

*Council vulnerable to such allegations and the perception that Asian drivers are being victimised."*

- 4.119 The report bemoaned the lack of a collaborative working relationship between the Council and the trade; it made particular reference to the tinted window policy, which it suggested failed to strike a proper balance between risk to public safety and the cost to the trade. There was, according to the report, *"an unhelpful prevailing culture within the Licensing Team which is more concerned with enforcement than developing a positive and mutually beneficial relationship"*.<sup>123</sup>
- 4.120 The newly formed Telford Private Hire Association called immediately for members of the Licensing Team to be dismissed.<sup>124</sup> An email I have seen suggested that a large number of Hackney carriage drivers had met to draw up a petition expressing their support for the work of the Licensing Team.<sup>125</sup> I pause to reflect that Hackney carriage and PHV drivers' interests do not necessarily run together.
- 4.121 It is not part of my Terms of Reference to review the independent investigation into the allegations made against the Licensing Team. I do not know enough about the history of enforcement in order to be able to comment on the findings of this investigation. But I consider I have plentiful evidence to allow me to set out what happened and to determine the effect of this incident upon taxi licensing in Telford.
- 4.122 I have already noted a moratorium on enforcement during the investigation period. On 5 December 2006, communication between the Licensing Team and WMP included the following:<sup>126</sup>

*"... has any decision been made as to whether you are coming out this weekend?"*

*"I have made further enquiries and the decision has gone up to the Chief Executive for a decision, no less. I am led to believe that the feeling at Director level was NO!"*

- 4.123 As a result there was the following exchange within ranks in WMP:

*"For your information, the licensing enforcement team are not coming to play."*

*"Taxis?"*

*"No its looking at pubs and clubs. Wouldn't even consider taxis at the moment but it looks like they can't play at anything."*

*"Who do I need to speak to at BTW to persuade them that this is an essential part of partnership working?"*

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123 [REDACTED] pg 4  
124 [REDACTED] pg 2  
125 [REDACTED]  
126 [REDACTED]

## Independent Inquiry Telford Child Sexual Exploitation

4.124 That last question – from a Chief Inspector who had carefully resisted indulgence in the juvenile (but, I consider, harmless) language of “*coming out to play*” - made its way to director level within the Council. The reply came:

*“... still think that we shouldn't take part at the moment because although this is a separate subject area there is scope for the trade to see our enforcement officers in police cars and it is possible that some PHV drivers will be stopped by the police if they see something wrong with a vehicle. This will place our officers in a difficult position. I hope that [a senior police officer] might understand that we are at a sensitive point in our relationship with the trade and would be willing to support a partner's difficult choice. Incidentally I'm not sure that the reference to “coming out to play” is professional for a serious operation.”<sup>127</sup>*

4.125 It is plain that the “*difficult choice*” that had been made was not to run taxi enforcement for some time lest the trade was put out. I am not convinced that this choice was difficult; rather, it seems to have been the path of least resistance.

4.126 In December 2006 the General Purposes Board wrote to the operator who was the subject of the complaint in November 2005 (and a signatory to the Telford Private Hire Association letter<sup>128</sup>) to note that he had taken none of the steps required to rectify systems after the complaint.

4.127 The Inquiry understands that, during the investigation, a sign had been put on the footbridge near the Licensing Team's office reading “*RIP* [a specified member of the Licensing Team]”<sup>129</sup>; WMP advised the team to “*watch their step*”<sup>130</sup> and the Council itself inspected enforcement officers' homes, moved letter boxes out of front doors and fitted CCTV. It was thought that the member of the Licensing Team, to whom the sign referred, had been ousted and this affected the Licensing Team's morale. The Inquiry further heard that all subsequent enforcement operations had to be approved by senior management; the team became a “*shadow of its former self*”<sup>131</sup>, though I accept that this was only the assessment of one individual and did not necessarily reflect the view of the whole Licensing Team.

4.128 A member of the Licensing Team gave an account of how the team had been affected by the racism allegations. They said:

*“I think morale was affected but we continued working as normal, the effect of enforcement was that we stopped the regular vehicle enforcement exercises as in we no longer did them monthly. We carried on doing enforcement but it was introduced slowly in the night-time economy, not nearly as pro-active as we had been or reactive I should say to intelligence, like plying for hire etc.”<sup>132</sup>*

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127 [REDACTED] pg 1  
128 [REDACTED]  
129 [REDACTED] pg 23  
130 [REDACTED] pg 23  
131 [REDACTED] pg 25  
132 [REDACTED] pgs 11-12

## Independent Inquiry Telford Child Sexual Exploitation

4.129 I understand that there was an instruction not to refuse or revoke any licences under delegated authority, only to grant licences.

4.130 In so far as any licence applications which were not clear cut, these were to be sent to the Licensing Committee. I heard evidence that there was fear within the Licensing Team that any actions might be perceived as being racist.<sup>133</sup>

4.131 These licence applications were taking place at a time when the evidence shows the importance of a properly rigorous licensing and enforcement regime. First of all, of course, this was the time of the Operation Chalice intelligence-gathering phase, when it was clear CSE perpetrators were active in Telford. The Inquiry has heard the following evidence from victim/survivors:

*"There was a ring of different people, some were taxi drivers, and they used to supply drink and these different girls, nothing happened to me straight away but eventually it did."*<sup>134</sup>

*"There was an incident when I was 12 where I had a taxi from my friend's house, that he'd arranged and this taxi driver tried to assault me kind of thing, but I got home and I told me mum, my mum called the police... there was about six or seven Asian men who came to my house. They threatened my mum saying that they'll petrol bomb my house if we don't drop the charges."*<sup>135</sup>

*"[Name] was forced into the back of this taxi and raped."*<sup>136</sup>

4.132 The parent of a victim/survivor told the Inquiry about seeing "a load of taxis outside a restaurant or you see young girls going in, that kind of filtered out to the smaller areas".<sup>137</sup> I also read evidence that:

*"... there was a huge problem there with taxis and girls being picked up ... I mean I witnessed taxis coming and going, but it was who to turn to... and who to talk to, who to report to... then we did start reporting it to our local Councillor to be honest who we felt would pick it up... and all that would come back was, well [a local women's refuge] is being manned, when we knew damn well it wasn't being manned."*<sup>138</sup>

4.133 Second, I have seen, within licensing material, the following detail in respect of concerning cases that:

4.133.1 The Council's Children's Services team had become aware of taxi drivers offering children free rides in return for sexual activity.<sup>139</sup>

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133 [REDACTED] pg 12  
134 [REDACTED] pg 3  
135 [REDACTED] pg 3  
136 [REDACTED] pg 10  
137 [REDACTED] pg 14  
138 [REDACTED] pg 15  
139 [REDACTED] pg 11



## Independent Inquiry Telford Child Sexual Exploitation

- 4.133.2 It was noted on a Council case file that one child had been seen performing oral sex on taxi drivers.<sup>140</sup>
- 4.133.3 A driver who had offered to waive a fare in exchange for oral sex in December 2006 had apparently faced no enforcement activity<sup>141</sup> - despite being very quickly identified by the Licensing Team - until February 2008; despite having been arrested in September 2007 as the suspected perpetrator of a sexual assault, with a similar request for oral sex, in respect of a vulnerable woman in March 2007. When he was contacted by the Licensing Operations Manager, he was informed that his renewal would be processed subject to the investigation. Happily, the result of the investigation appears to have been that the driver's licence was revoked.<sup>142</sup>

### **Enforcement since 2008**

- 4.134 The Inquiry understands from the evidence it has heard that enforcement was slow to recover after this period:

*"... there wasn't much enforcement happening at all... it was around about end of sort of 2011 that [the Licensing Team] started doing enforcement again... I think their [the Licensing Team's] fingers had been burnt a little bit. They were a bit sore about it so there was kind of like a relaxation on enforcement and then when [the Licensing Team] started to do it again, it all got a bit personal. I know [a team member] had to... put CCTV up at [their] house to protect [them]. So I think there was a little bit of trepidation in the earlier days about doing enforcement."<sup>143</sup>*

- 4.135 As to the experience of a member of the Licensing enforcement team, I heard:

*"Any enforcement operation I have been involved in or since organised, it never puts me off. I've been shouted at, I've had people in my face, I've had people follow me around Asda threatening me, it doesn't bother me. I'm made of sterner stuff. It's something that, with the guy that followed me around Asda, I just reported it to the police, police spoke to him, he's never been in contact since. The other guy that verbally attacked me and followed me, in a plying for hire operation, I nicked him, he wasn't happy, he waited for us, he followed me back to the police station, he waited for me outside, he got really verbally abusive. All I did was complete a statement and send it to Shropshire and they just revoked his badge, so he didn't win. He can shout and scream as much as he likes, he's never going to win and thankfully, touch wood, I've never been physically touched.*

...

*Certainly on enforcement, plying for hire operations, it's never stopped me, we've now got body cameras as well ourselves so we wear body cams with our stab vests. Anything on*

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<sup>140</sup> [REDACTED] pg 5

<sup>141</sup> [REDACTED]

<sup>142</sup> [REDACTED] pg 22

<sup>143</sup> [REDACTED] pgs 82-84

## Independent Inquiry Telford Child Sexual Exploitation

*them that can get downloaded and used in evidence should they contest the plying for hire or what I said or how I behaved.*"<sup>144</sup>

- 4.136 In the period when enforcement was lax, the regulatory landscape changed. In November 2008, judgment was given in the case of *R (on the application of Newcastle City Council) v Berwick-upon-Tweed Borough Council and Others*.<sup>145</sup> The administrative court held that PHV operators licensed in one local authority area can properly use Hackney carriages to fulfil pre-booked hire in another local authority area. Further, PHV journeys do not have to take place within the licensing local authority area and (since 2015<sup>146</sup>) an operator licensed in one area can take a booking and subcontract it to an operator in another licensed area.
- 4.137 The twin ramifications of the decision were explained in evidence to the Inquiry, the first being that an operator can choose their licensor and the second being that the choice that the operator makes has a direct effect on the resources – through fees income – of the local authority. Local authorities are, in effect, in competition with each other, with those authorities who require a less rigorous process being able to offer a cheaper licensing fee. The Council’s conditions remained relatively stringent with driver awareness training and a test, as well as other disparities with neighbouring authorities, including as to vehicle requirements. This had an enormous impact on the size of the fleet licensed by the Council: a witness told me: “we went down from 540 to about 150 drivers literally overnight”.<sup>147</sup>
- 4.138 Not only were Shropshire’s fees lower than the Council’s – Shropshire Council’s own licensing department certainly took the view that they were “too cheap”<sup>148</sup> – standards were materially different, as follows:<sup>149</sup>

<b>Telford</b>	<b>Shropshire</b>
Applicants must have held full driving licence for at least three years	Applicants must have held full driving licence for at least one year
All applicants to have medical assessment every three years	Applicants to be screened for fitness before licence first issued and at five-yearly intervals over age 45
Doctor must see applicant’s medical history	No requirement for doctor to see medical history
Licensing send medical forms to nominated doctor with a photo of the applicant	Medical forms downloaded from website; no requirement for doctor to have seen photo

<sup>144</sup> [REDACTED] pg 84

<sup>145</sup> [2008] EWHC 2369 (Admin)

<sup>146</sup> Section 11 Deregulation Act 2015

<sup>147</sup> [REDACTED] pg 18

<sup>148</sup> [REDACTED]

<sup>149</sup> [REDACTED]

## Independent Inquiry Telford Child Sexual Exploitation

4.139 Shropshire Council had droves of applicants: the minutes of a regional licensing workshop held in Birmingham in October 2011<sup>150</sup> show that an officer of Shropshire's licensing authority reported that:

*"... licensing consultants and some licensing solicitors have promoted Shropshire to the trade generally resulting in a 400%<sup>151</sup> increase in drivers and vehicles being licensed by Shropshire."*

4.140 Further, while the officer said *"it was not entirely clear why Shropshire had been chosen"*, they nevertheless *"concede[d] that the knowledge test and licensing conditions in Shropshire were perhaps less onerous than in some other authorities."*

4.141 The combination of lower standards and lower cost rather removes any confusion as to Shropshire Council's popularity; though it should be noted that Shropshire successfully defended a condition that Hackney carriage licences should only be granted to drivers operating within its area.<sup>152</sup>

4.142 Attempts to agree on a regional standard also failed. A Council witness told me that they regarded the Suitability Guidance, published by the Institute of Licensing in 2008, (the "Suitability Guidance") as a useful starting point for building common standards with neighbouring licensing authorities. That was a false hope. When Shropshire Council was contacted by the Council and asked if they would be adopting the Suitability Guidance, they were told that Shropshire did not see any need to change its policy. Shropshire Council was still adopting the Department of Health circular, which the witness noted was *"quite ancient"*.<sup>153</sup>

4.143 This situation had a number of consequences:

4.143.1 First, licensing income crashed with a resulting effect upon the size of the team. I was told:

*"Licensing is self-sufficient in that income is from the licensing fees which are set at cost recovery, we're obviously not allowed to make a profit. Not all licensing functions we can recover at cost, an example of that would be the Licensing Act where the fees are set in statute so we as a Council don't work those out to cover costs, we can't."*<sup>154</sup>

4.143.2 In this way, the income of the Licensing Team depends on the number of licences granted.<sup>155</sup> As a concrete example of the consequence, another member of the

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pg 2  
pg 22  
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## Independent Inquiry Telford Child Sexual Exploitation

team noted that *"they had a team of about ten when I first started... the Licensing Team is four people"*.<sup>156</sup>

- 4.143.3 Second, drivers and operators licensed in other authorities could work in Telford without satisfying the *"fit and proper person"* or vehicle standards upon which the Council insisted. The Inquiry was told:

*"As soon as 2011 our concerns started to rise about drivers that were being issued with licences by Shropshire Council, and were coming back and driving in Telford & Wrekin, driving our residents and our visitors around, and some of these drivers we had either refused applications or the licences had been reviewed and we had revoked them, and they were appearing licensed by Shropshire Council..."*<sup>157</sup>

- 4.143.4 Third, the Council's Licensing Team has limited regulatory powers in respect of drivers licensed by other authorities. In broad terms while they can deal with certain on-street infractions, such as plying for hire by PHVs<sup>158</sup>, they cannot deal with complaints about drivers other than by referring to the relevant licensing authority. One member of the team said of such complaints:

*"[The] Licensing Team, have to identify, if we can, from the information given us... which of those Councils licensed the driver and vehicle, and then we pass the complaint on to them. The amount of times myself and my colleague [name of colleague and position], have asked for feedback as to the outcome of any investigation they've led, the amount of times that that just disappears into the ether and we don't actually hear back is frustrating."*<sup>159</sup>

- 4.143.5 Fourth, though, and most seriously, the Council's decision to adopt the Cabinet member's suggestion to suspend licensing enforcement was a disastrous one.<sup>160</sup>

- 4.144 In relation to Shropshire Council's apparent refusal to consider changing its policy, upon being asked whether it would be adopting the Suitability Guidance by the Council, the Inquiry understands from Shropshire Council that this guidance was in fact *"fully considered"*<sup>161</sup> when drafting its most recent licensing policy, which covers the time period of 2019 to 2023.

### **Lobbying for reform**

- 4.145 There were, and are, no compulsory minimum regional or national standards in relation to taxi licensing beyond the *"fit and proper person"* test, despite repeated calls for implementation. In terms of national lobbying, in 2011, David Wright, the then MP for

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<sup>156</sup> [REDACTED] pg 77  
<sup>157</sup> [REDACTED] pg 19  
<sup>158</sup> [REDACTED]  
<sup>159</sup> [REDACTED] pg 24  
<sup>160</sup> [REDACTED]  
<sup>161</sup> [REDACTED]

## Independent Inquiry Telford Child Sexual Exploitation

Telford, wrote to the Department for Housing and Local Government, about cross-border hiring. David Wright received this reply from the minister at the Department for Transport:

*"I note what you say about licensed taxis carrying out pre-booked journeys in districts other than their own licensing area, and about drivers who are not deemed 'fit and proper' by Telford and Wrekin who then acquire driver licences elsewhere.*

*Whilst I recognise that you want to see early action to change the law governing cross-border hiring and driver licensing, these are not issues which can easily be dealt with in isolation or in advance of the wider Law Commission review."<sup>162</sup>*

4.146 The Law Commission considered the issue and in May 2014 published its report, recommending national standards, and a draft bill. No parliamentary time has been found for that bill, however.

4.147 In 2017, Richard Overton, deputy leader of the Council, wrote to the Department for Transport to raise cross-border hiring and the effect of the Deregulation Act. He received this reply:<sup>163</sup>

*"As you are aware, legislation allows all taxis and PHVs to undertake pre-booked journeys outside the area in which they are licensed, and PHV operators to sub-contract bookings to PHV operators based in other licensing areas. These measures have enabled the taxi and PHV trade to work more flexibly to meet the needs of passengers, increasing the availability of licensed operators, drivers and vehicles and mitigate the risk of passengers being turned away when a booking cannot be directly fulfilled. This benefits passengers as they do not have to try to find another operator, a particular concern for those travelling on their own or late at night. We believe that where local operators cannot meet demand, the sub-contacting of bookings, both within and across licensing borders, is preferable to the risk of the public resorting to the use of illegal, unlicensed, uninsured and unvetted drivers and vehicles...*

*John Hayes [a minister at the Department for Transport] has recently set up a working group to consider current issues concerns relating to taxi and private hire vehicle licensing, and produce focussed recommendations for action. The first meeting of the working group took place on 26 September and it will be considering the regulation of the trade as one of its key areas for discussion. We are inviting a range of interested parties to provide some written input to the group, to make sure they have full range of views to consider. We would welcome your input to this; we are asking for summaries of about 500 words..."*

4.148 Richard Overton, deputy leader of the Council, wrote to the Secretary of State for Transport on 27 February 2018 to make the point that the absence of national standards meant that the Council's requirement for CSE training and awareness for drivers was not required by surrounding authorities, whose drivers could continue to operate within the borough with impunity. Richard Overton asked for a swift response he could put before a full Council meeting; I have seen no reply at all.

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<sup>162</sup> [REDACTED] pg 3  
<sup>163</sup> [REDACTED] pgs 9-10

## Independent Inquiry Telford Child Sexual Exploitation

- 4.149 The next month, Richard Overton and the Council Leader, Shaun Davies, wrote to a Minister of State at the Department of Transport setting out what seems to me to be a fair summary of the situation:<sup>164</sup>

*"At the moment, standards vary widely across licensing authorities, so what may be acceptable in one area is not acceptable in another. This seems nonsensical, as we can refuse to grant a licence in Telford & Wrekin, and that person can apply to a neighbouring (or other) authority and obtain one there, but still work within our area. In fact, a number of operators that have been established in Telford & Wrekin for some time have openly admitted to advising private hire drivers to apply for drivers and vehicle licences in neighbouring authorities whose licensing conditions are not as robust as Telford & Wrekin's. These drivers returned to drive for hire and reward in Telford & Wrekin. What is most worrying is that public safety is at the forefront of any decisions we make and if we refuse to grant a licence, it will be for legitimate reasons in order to protect the travelling public. For that licence to be granted in another authority just because they have lower standards than in Telford & Wrekin is simply not acceptable."*

- 4.150 The Department for Transport minister replied in May 2018 indicating that they had passed correspondence to the "Task and Finish Group".<sup>165</sup>
- 4.151 This group – presumably also the working group referred to in 2017 - was commissioned by the Department for Transport under Professor Mohammed Abdel-Haq<sup>166</sup>, and reported in 2019. It recommended national minimum standards, national enforcement powers, and a national licensing database.
- 4.152 The Government's response accepted the recommendations<sup>167</sup>, with a promise to "take forward legislation when time allows"<sup>168</sup>; though its actual response has been the 2020 Statutory and Best Practice Guidance (to which I have already made reference) which made clear (at paragraph 2.8) "licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law" – which is, of course, a reinforcement of localism rather than an endorsement of national standards.

### **Information sharing**

- 4.153 As to information sharing between authorities, there was initially no agreed protocol. The Council would write to neighbouring authorities requesting or sending information – three examples from 2011 as follows:

*"Telford & Wrekin Licensing Service is in receipt of several complaints with regards to the above Shropshire plated Hackney Carriage Vehicle operating in Madeley. I have now investigated the matter and spent a large part of today watching the vehicle standing and*

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<sup>164</sup> [REDACTED] pg 13

<sup>165</sup> [REDACTED] pg 17

<sup>166</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/954327/taxi-and-phv-working-group-report-document.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/954327/taxi-and-phv-working-group-report-document.pdf)

<sup>167</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/923695/taxi-task-and-finish-gov-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/923695/taxi-task-and-finish-gov-response.pdf)

<sup>168</sup> Government Response to the report of the Task and Finish Group para 2.4, pg 8

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*plying for hire in Madeley. I was not able to ascertain owner/driver details but would like to invite the driver in for an interview under caution to discuss possible offences under S45 of the Town Police Clauses Act 1847.”<sup>169</sup>*

*“I recently interviewed the above driver, who was suspended by this Council from driving licensed vehicles on 22nd March 2011, regarding a conviction at Telford Magistrates Court on 13th May 2011. [The driver], who is a licensed driver with Shropshire Council, indicated to me during his interview that Shropshire Council were unaware of this conviction. I advised [the driver] that he should inform you. I have, today, written to [the driver] revoking his Telford & Wrekin Private Hire Driver Licence.”<sup>170</sup>*

*“... in relation to the 14 licences granted by Licensing Committee with special conditions attached, once the licences are issued please can you let us have the plate numbers and vehicle details of these and other licences granted with special conditions so that we can identify the vehicles if we see them in Telford’s borough.”<sup>171</sup>*

4.154 This information sharing was not always effective. On 3 August 2012, Shropshire Council’s Licensing Team declined to issue address details of a licensed driver to Telford without a formal request, noting *“I’m not sure whether there is an information sharing protocol between our respective councils?”*<sup>172</sup>

4.155 With regard to ex-Telford drivers licensed by Shropshire Council, the Inquiry was told:<sup>173</sup>

*“I collated a list of about 16 drivers that we’d either refused or revoked that Shropshire Council had licensed.... Some of those that were on that list were safeguarding reasons why they’d had their licences refused and revoked.”*

4.156 In respect of the 16 drivers, Shropshire Council has indicated to the Inquiry that reviews were undertaken between September 2014 and April 2015, with *“relevant action”* taken in each case. Where there were safeguarding concerns that related to any driver who was licensed by Shropshire Council, these were addressed individually, with input from WMP, and where there was sufficient and relevant evidence of inappropriate behaviour that could be satisfactorily attributed to a licensed driver, action was taken to ensure that these drivers were no longer licensed with Shropshire Council. It is not clear how many of the 16, if any, continued to hold a licence and for how long.

4.157 Shropshire Council has further indicated that, from 2015 onwards, *“proactive checks”* have been made with Licensing Teams in other local authorities where an applicant’s address is outside Shropshire, as well as with those other authorities’ safeguarding leads.<sup>174</sup>

4.158 I have seen a document which must have been produced after January 2013, which suggests that the Council had not received any request from Shropshire Council regarding the history of a driver previously licensed by the Council; and that Shropshire Council had

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## Independent Inquiry Telford Child Sexual Exploitation

licensed drivers refused or revoked by the Council for conduct including dishonesty offences, sexual misconduct, complaints of inappropriate behaviour, physical abuse of a member of the Licensing Team, sexual remarks made to a Council official and violent disorder.<sup>175</sup> Shropshire Council complained that it was under extreme pressure in performing licensing enquiries, but its request for help from the Council was rebuffed: which, given the way the Council's Licensing Team was funded, seems entirely understandable.<sup>176</sup>

- 4.159 An information sharing agreement was drafted between the Council and Shropshire Council in 2012, but was not signed until July 2015.<sup>177</sup> I have seen no evidence it was used prior to this date. I was told that, by that stage, the Council's licensed fleet had:

*"... slowly built [back] up but then Wolverhampton City Council started licensing our vehicles too and drivers, so although we had built up, we suddenly lost an enormous amount of income in the form of taxi licence fees literally overnight."*<sup>178</sup>

- 4.160 They estimated the number of licensed PHVs to have fallen in 2015 to approximately 80, from 150 at the Shropshire trough and over 450 at the 2010 peak.<sup>179</sup>

- 4.161 Opinions as to how well information sharing worked at this stage vary. One Licensing Team member told the Inquiry:

*"I've got a really good relationship with Shropshire, absolutely brilliant relationship with Shropshire. We share information, we look at each other's, we help each other out all the time and I know, I am 100% sure that if I pass on anything to Shropshire about any of their drivers, what they've done here in Telford, they will deal with it. Completely confident because they always get back to me, always emailing with others backwards and forwards so I know for a fact that they do deal with it and quite often I have provided them with evidence where they've revoked a driver's badge or whatever.*

*On the other hand, if they're licensed by Wolverhampton City Council, I am not that confident.*

...

*[About Wolverhampton] it's a one way street. So, I would send them information and I would get nothing in return. Not always an acknowledgement that they've received this. What I tend to do I will then refer it into the police and say, "Look, he's not licensed by us, he's licensed by Wolverhampton so you'll need to contact West Mids Police" and then hopefully West Mids Police, because they police Wolverhampton, would have more results from dealing with Wolverhampton taxi licensing than we do ... I can't put my hand on my heart and say to a member of the public when they've reported something to me about a Wolverhampton driver that it's going to be dealt with because I can't because we don't get*

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## Independent Inquiry Telford Child Sexual Exploitation

*any feedback. So I don't know whether it's dealt with or not and they are, their standards are lower than ours.*<sup>180</sup>

4.162 Another member of the team gave the opposite view:

[Witness:] *"Since [the data sharing agreement with Shropshire] was implemented, every new application or renewal application, and we still do it to this day, or a Telford licence through the information protocol, we send names, addresses, and dates of birth to Shropshire and ask for any relevant information they might hold on that driver before we determine the application. It doesn't happen the other way round.*

[About Wolverhampton]... *they're better, we don't have an information sharing protocol with Wolverhampton but what Wolverhampton do, is they will send us a data protection request for anybody who applies to them, who says they've been licensed with us.*<sup>181</sup>

*"We have a lot of communication with Wolverhampton both ways."*

[Inquiry:] *"But not so much with Shropshire?"*

[Witness:] *"Not so much with Shropshire, no."*<sup>182</sup>

*"I had regular meetings with [a Licensing Team member] in Shropshire but unfortunately, because in [their] words I always used to complain to [them] when I went because I always used to take [their] bad news stories of examples of complaints we were getting about their licensed drivers and vehicles, [they] stopped the meetings and they stopped and that was it. We didn't have any more, so I don't think [they] liked me telling [them] what was wrong with [their] drivers and vehicles."*<sup>183</sup>

4.163 A WMP representative who gave evidence to the Inquiry appears to agree with this latter view, stating that:

*"... the national taxi-licencing protocol is fatally flawed, as it is entirely possible for a taxi to operate in an area but be licensed by a completely different local authority."*<sup>184</sup>

4.164 Shropshire Council's view was stark:

*"The situation whereby a taxi/private hire vehicle can operate in an area but be licensed by a completely different authority, is, fundamentally, a result of historic legislation, which is not fit for purpose in the 21st century and has left local licensing authorities and the DfT [(Department for Transport)] with an outdated regime and the use of 'sticking plasters'."*<sup>185</sup>

4.165 While individual information sharing agreements with neighbouring authorities plainly have value, it seems to me that the Council should seek to persuade its neighbours of the value

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180 [REDACTED] pgs 36-39  
181 [REDACTED] pgs 26-27  
182 [REDACTED] pg 46  
183 [REDACTED] pgs 23-24  
184 [REDACTED] pg 17  
185 [REDACTED] pg 25

## Independent Inquiry Telford Child Sexual Exploitation

of a regional, common information sharing agreement; it is no answer simply to wait for a national solution.

### **Badge swapping**

4.166 I have read in various witness accounts concerns being raised about taxis being driven by people other than the licensed driver,<sup>186</sup> a practice known as 'badge swapping', with a typical example being:<sup>187</sup>

*"[the perpetrator] gave false details, his cousin's name, and was told to bring his driving licence to the police station the next day. ... I later learned that [the perpetrator] did not have a driving licence and his cousin took his own documents into the police station the next day and the matter was dropped ... this kind of thing happened a lot."*

4.167 The Inquiry was also told:

*"... there are many unregistered taxi drivers, who use the driving licences of brothers or other family members, often then using the taxis for trafficking young victims of CSE".<sup>188</sup>*

4.168 Also that:

*"... well what have they done previously under another name and taxi drivers, there is a loophole and especially with the Asians because [name] shouldn't have been driving a taxi... my husband asked one of the taxi guys that waited at Telford Train Station, the black cabs, and apparently they can do it under another name because they don't get checked."<sup>189</sup>*

4.169 The Council told the Inquiry that it aims to carry out enforcement exercises several times a year, including in Wolverhampton and Shropshire Councils' territories if invited. Both Wolverhampton and Shropshire Councils are invited to all exercises of this nature run by the Council, in order to enable all licensed vehicles to be inspected, regardless of their licensing authority.<sup>190</sup>

4.170 The Inquiry asked a Council officer whether badge swapping was an issue that the Licensing Team had encountered during enforcement and/or compliance exercises and was told:

*"No. All those exercises that I mentioned that we carried out as enforcement exercises over the year with taxis, whether it's plying for hire or joint VOSA exercises. The first thing that any Licensing Officer does... is you ask the driver for his badge, because it's an offence not to wear a badge. We always ask for the driver's badge to identify the driver. Because even before we became CSE aware, back in the days before Operation Chalice, one of the things that it's our duty to ensure is that there aren't any unlicensed taxis out there, or unlicensed drivers, and it is something that any Licensing Officer or Licensing Enforcement Officer will always ask for and look at the driver's badge. If they haven't got the driver's badge you*

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186 [REDACTED] pg 11  
187 [REDACTED] pg 8  
188 [REDACTED] pg 19  
189 [REDACTED] pg 4  
190 [REDACTED] pg 89

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*send them home to get the driver's badge and come back immediately. When you see the driver's badge of course you always check the badge against the person behind the wheel, and I can say that I have never ever... been aware of any Licensing Officer, including myself, coming across an imposter during any enforcement exercises we've done."*<sup>191</sup>

- 4.171 As to a specific allegation of badge swapping which had received national press attention, the Inquiry heard that:

*"[the Council] found absolutely no evidence or hint of anything that said that that driver had allowed his vehicle to be used by somebody else."*<sup>192</sup>

- 4.172 The Council told the Inquiry that:

*"... the fact that no incidents of 'badge-swapping' have been detected during Council or multi-agency exercises or in general day to day contact with the taxi trade would suggest that it is improbably [sic] that any instances of "badge swapping" would be identified through such activity."*<sup>193</sup>

- 4.173 I confess I do not find it easy to understand what the Council is saying in this response: whether it is suggesting that badge swapping does not occur, or it is suggesting that enforcement is an imperfect tool for detecting it; the latter makes little sense, as the member of the Licensing Team made clear it is simply an exercise in comparing the person presenting the licence to the photograph on it.

- 4.174 In response to the Maxwellisation process, the Council suggested that, if badge swapping does occur, it does not occur on a scale large enough for licensing enforcement to be able to detect it during enforcement operations.<sup>194</sup> I confess that my view of this suggestion is that it is an extremely defensive and unhelpful response. If badge-swapping risks going undetected by the Council's enforcement operations, it should engage the public as sources of information, by raising public awareness of both the requirement for a licensed driver to display a badge, and of ways to complain about non-compliance.

### **Disruption tactics**

- 4.175 In response to a query about any enforcement action or disruption activity completed by the Licensing Team and the Council's Public Protection team as a result of suspected CSE, the Council referred to mapping work which was taking place, trying to link suspects with cases of CSE. As part of this work, a Council employee was tasked to undertake licensing checks in respect of CSE. I have seen a one page document which refers to some of the victim/survivors of CSE and sets out the connections between them and the schools they attended.<sup>195</sup> I have also seen minutes from a Senior Officers' Co-Ordination meeting dated 3 October 2007<sup>196</sup> where it states that a Council employee is to "undertake licensing checks

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191 [REDACTED] pg 15  
192 [REDACTED] pg 16  
193 [REDACTED] pg 77  
194 [REDACTED]  
195 [REDACTED]  
196 [REDACTED] pg 2

## Independent Inquiry Telford Child Sexual Exploitation

*regarding taxi drivers*". However, I have not seen any further evidence of these checks or evidence of the impact it had on tackling CSE.

### **Statistical analysis**

- 4.176 The Council and Shropshire Council have provided the Inquiry with four spreadsheets that contain taxi licensing information regarding taxi drivers licensed within the councils, where enforcement action has been taken. As I have noted above, it is important to note that the disclosure is incomplete, in part due to the time that has elapsed, and the Inquiry has not been provided with a complete list of all licences issued to taxi drivers during the time period of the Inquiry's Terms of Reference.
- 4.177 Notwithstanding this, I have analysed the data available which provides information about enforcement action taken against individual drivers. My analysis suggests that perpetrators or associates known to WMP may have been issued with taxi licences by both the Council and Shropshire Council.
- 4.178 The analysis conducted by the Inquiry was as follows:
- 4.178.1 The Inquiry cross referenced the names against a list of perpetrators and/or associates known to the Inquiry for their involvement/links with CSE (collated from documents provided to the Inquiry by WMP).
  - 4.178.2 The result of this cross-check suggests that there were indeed some perpetrators/associates who held taxi licences.
  - 4.178.3 A degree of caution must be exercised here as the taxi licensing data does not always provide the dates of birth of the taxi drivers. It is therefore possible that a perpetrator and taxi driver share the same name, but are in fact two different individuals. It is also possible that at the time the taxi licence was issued that the driver had no known association with CSE and it would therefore have been impossible for either the Council or Shropshire Council to identify concerns at the application stage.
  - 4.178.4 It should also be noted that in the majority of cases, enforcement action had been taken against the taxi driver, for example, the licence had been revoked, or the badge returned or the licence refused, which suggests that an effective system is in place when concerns are raised.
  - 4.178.5 The Inquiry also reviewed the spreadsheets to identify any particular drivers that could be of interest by searching the spreadsheets for terms that could be associated with CSE. For example, if there was information that a driver had spoken inappropriately to a female passenger, or had been accused of sexual activity with a female under the age of 16.
  - 4.178.6 From the list of names collated, searches were conducted against the material disclosed to the Inquiry by the Council and WMP and it was found that some further taxi drivers currently or previously licensed by the Council or by

## Independent Inquiry Telford Child Sexual Exploitation

Shropshire Council were potentially known by other agencies to have involvement or links with CSE. Again, I must exercise a degree of caution here given that the spreadsheets do not provide the dates of birth of the taxi drivers.

- 4.178.7 It is also important to note that where serious allegations had been raised against a taxi driver, the information disclosed that enforcement action was taken.

### Conclusions – Taxi Licensing

#### *Character of Applicants*

- 4.179 In so far as licensing policy for applicants was concerned, the Council adopted a policy (though termed “draft”) early in respect of previous sexual offending by applicants. Although on a contemporary view a period of at least three to five years’ free of offending appears minimal, this was the national guidance contained within the Home Office Circulars at the time.
- 4.180 I note that the Council held concerns early on about the effectiveness of the licensing regime under a three year licence validity, and in 2002 moved to a single year validity. At the same time changes in the law allowed the Council to take into account otherwise “spent” convictions.
- 4.181 In its first formal policy the Council noted that any applicant with a sexual offence conviction would go before the Appeals Panel for determination; but it chose to adopt an eligibility period of at least three years conviction-free, which was the lowest end of the scale suggested in national guidance.
- 4.182 In some respects the Council’s scrutiny was rigorous – for example pre-2012 it continued to insist upon enhanced CRB checks for driver applicants, although the legal basis for the stance was thin.
- 4.183 However, by 2012, the Council retained its guidance of at least three to five years sexual offence conviction-free before application would be considered, notwithstanding the 2010 LACORS guidance suggested ten years post-conviction. The LACORS period was finally adopted in 2017, which seems to me to be a very significant gap since publication and likely indicative of oversight rather than a deliberate policy.
- 4.184 It is plain that the Licensing Team was keen to see material held by the Safeguarding service as early as 2012, but that information sharing did not begin until 2015, and then at the discretion of Safeguarding, and that it was not until 2018 or later that routine checks began.
- 4.185 It is still not clear to me why the Council did not make use of the PSP Register prior to 2017, given it had been in existence by then for 14 years; it would seem to be an essential resource.

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- 4.186 So far as information sharing is concerned, I have heard varying accounts of cooperation between the Council and neighbouring local authorities. I cannot choose between accounts which suggest that one neighbour was more cooperative than the other, but I can conclude that it is regrettable that there is not a regional or national protocol on mandated information sharing between licensing authorities. I therefore include a recommendation to this effect in the Recommendations section at the beginning of this Report.

### ***Other conditions***

- 4.187 The Council developed a tinted windows policy as early as 2002. The dangers of heavily tinted windows are obvious: if the back seat is not visible, enforcement authorities and others cannot see who is being carried or what is happening in the vehicle. The initial requirements of the policy excluded some factory fitted tinted windows and as a result – and after complaints – were changed in 2008. Following consultations with the trade, they were changed again in 2016 with specific light transmissibility requirements. As I have noted above, the Council seems to me to have been proactive in imposing this condition at a time of concern about children in taxis. The Council remained committed to the condition despite the difficulties it caused with the trade.
- 4.188 The Council's CCTV scheme was published in 2010. This was a potentially useful innovation, but the evidence I have seen tends to suggest it failed because of a somewhat overenthusiastic and even petty approach to enforcement; that every infraction became an issue, rather than the cameras being used to protect passengers and drivers. It seems that as a result the scheme fell into disuse, though I understand from the Council that it is keen to revive it and that plans to do so are in train.<sup>197</sup> The reasons for the failure of the previous pilot scheme must be remembered and not repeated.
- 4.189 The Council introduced compulsory CSE training for taxi drivers in 2015; this was in my judgment a positive, if belated, move, as was the requirement for operators to designate a safeguarding officer. In the Recommendations section, I consider whether such training can be rolled out more widely.

### ***Regulation in practice***

- 4.190 Quite clearly, other authorities have operated less rigorous licensing schemes than the Council and have benefitted from custom and income, while the Council has been deprived of both. As a result, I confess that I regard a system that encourages drivers to choose lighter touch, non-local regulators and in doing so to starve the local regulator of funds as utterly bizarre and quite unjustifiable. This is a matter for central government, and out of my remit; but I can say that I regard the lobbying attempts of Telford politicians on the point as measured and persistent and the response of central government as disappointing in the extreme.
- 4.191 Whatever the standards required by the Council, they are only meaningful if they are enforced. In this regard, the 2006 dispute with taxi drivers showed both sides in a poor light. First, some of the drivers were personally hostile to members of the Licensing Team

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<sup>197</sup> [REDACTED]

## Independent Inquiry Telford Child Sexual Exploitation

and members of the team felt threatened as a result. Second, there appears to have been no real engagement between the parties: it may be that the dispute might have been avoided if there was the sort of negotiation over contested terms as there was in 2016 over (again) tinted windows. Third, it is a great shame that after a public meeting between the Council and the newly formed Telford Private Hire Association, enforcement resumed the following day; a move that seems to me to have been designed to show who was (still) boss. Fourth, though, and most seriously, the decision by senior officers in the Council and by an elected member to suspend licensing enforcement was a disastrous one. On the material I have seen it was borne entirely in fear of accusations of racism; it was craven. It is quite apparent from the evidence I have seen that the Licensing Team's strength and effectiveness was much diminished by that decision over the coming years, which were, of course, the years that the Chalice offending, when concerns reported about the exploitative behaviour of taxi drivers and misuse of badges by those purporting to be taxi drivers, were at their height.

- 4.192 Finally, the statistical analysis that the Inquiry has undertaken, though necessarily couched with caution about duplicated names, tends to suggest that there were suspected CSE perpetrators in Telford who have previously held a taxi licence issued either by the Council or Shropshire Council.
- 4.193 That is in my view a significant result and one which is more likely to be attributable to some feature of the job which is attractive to perpetrators, rather than to chance. The obvious feature that a CSE perpetrator would find attractive is that taxi drivers hold a position of responsibility to the public; people tend to trust them. It also shows why an effective system of licensing and enforcement is vital, and why the public must know about the standards they are entitled to expect: they must know how to complain, and must to be able to make a complaint easily and quickly.
- 4.194 I take the view that on the evidence I have seen the Council does now operate an effective system of licensing, but remains hampered by inconsistent standards on regional regulatory requirements and information sharing. It is difficult to see what more the Council and its officers could have done to lobby central government on this point, and indeed the battle was seemingly won by the concession in 2019 that the Government would introduce statutory standards "*when time allows*". For my part I cannot see legislation that addresses this shocking difference in standards as anything other than an unalloyed good, and fail to understand the lack of priority. People should be able to feel safe in taxis. This is something I have also sought to address via my recommendations.

### The Night-Time Economy

- 4.195 The 'night-time economy' is an ill-defined concept. I have considered it principally in this Report to relate to licensed premises, and I have sought to understand the steps that key stakeholders took in relation to such premises in relation to CSE.



# **Joint Operating Framework for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing in Oxfordshire**

**Between**

**Oxford City Council  
South Oxfordshire District Council  
Vale of White Horse District Council  
West Oxfordshire District Council  
Cherwell District Council  
Thames Valley Police  
Oxfordshire County Council**

**March 2022**





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## Introduction: Local and National Context

The Oxfordshire Joint Operating Framework (JOF) for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing was commissioned by the Child Sexual Exploitation Sub-Group of Oxfordshire Safeguarding Children Board (OSCB), and is the result of collaboration between the City and District Councils, the County Council and the police. Health partners have reviewed their processes separately.

OSCB recognised the risks involved in transporting children and adults with care and support needs, and the opportunities provided by taxi and private hire drivers to spot the signs and alert the appropriate authorities to concerns about the safety of children and adults with care and support needs. Taxis and private hire vehicles regularly transport passengers who may be vulnerable, for example when the passenger is under the influence of drink or drugs or is travelling alone, hence the need to promote the highest safeguarding standards to protect both passengers and drivers.

The JOF provides a single set of minimum standards for agencies with responsibilities for transporting children and adults with care and support needs in Oxfordshire, including addressing vetting, training, awareness raising, information sharing, policy alignment, enforcement activity and quality assurance and monitoring.

It has been developed as a direct result of the learning from the Bullfinch investigation into historical child sexual exploitation in Oxford, the subsequent Serious Case Review into child sexual exploitation of Children A-F (published in March 2015) and the findings of the Stocktake Report set up to review Oxfordshire's current approach to tackling child sexual exploitation (published in July 2015).







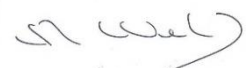

The Joint Targeted Inspection of Child Sexual Exploitation and Children Missing in Oxfordshire in March 2016 found that "Oxfordshire now has a highly developed and well-functioning approach to tackling exploitation: "Work in relation to taxi licensing and hotels are seen as "important steps in building community confidence in the recognition and reporting of safeguarding issues."

In May 2013 the Bullfinch investigation resulted in seven men being sentenced to a total of 95 years in prison for a range of child sexual exploitation offences in Oxford. The Serious Case Review identified that a number of the victims had spoken of being transported in licensed vehicles to locations where offences took place. The review recommended that Licensing Authorities in Oxfordshire seek harmonisation of taxi and private hire licensing standards across the county and this Operating Framework is a product of that work.

The 2015 Stocktake Report was positive about the local progress made and recommended that the county council and all districts had to work more closely together to ensure that the regulation of the contracts to transport vulnerable children and taxi licensing across Oxfordshire is more robust.

At a national level in February 2015, a report was published into the failings of Rotherham Metropolitan Borough Council to protect young people in the city from child sexual exploitation. The report, written by Louise Casey, recommended improvements to the authority's taxi licensing function and these have also been taken into account in drawing up this framework. Examples of good practice in Sheffield and other areas have also informed its development.

This document was originally drawn up in November 2015. It was reviewed in February 2018, and again in March 2022. This version has been signed off by the following:

Organisation	Name	Position	Signature
Thames Valley Police	Katy Barrow-Grint	Chief Superintendent	
Oxfordshire County Council	Lara Patel	Deputy Director - Safeguarding	
Oxfordshire County Council	Paul Ferner	Assistant Director – Community Operations	
Oxfordshire County Council	Karen Fuller	Deputy Director for Adult Services	
Oxford City Council	Ian Wright	Head of Regulatory Services and Community Safety	
West Oxfordshire	Michelle Clifford	Business Manager for Resident Services	
Cherwell District Council	Richard Webb	Assistant Director - Regulatory Services and Community Safety	
South Oxfordshire and Vale of White Horse District Councils	Liz Hayden	Head of Housing and Environment	

# 1. Background Information

## 2.1 Legal Framework

Hackney carriage (taxi) and private hire vehicle legislation is primarily contained in the [Town Police Clauses Act 1847](#) (hackney carriage) and the [Local Government \(Miscellaneous Provisions\) Act 1976](#) (both hackney carriage and private hire).

The legislation provides a broad framework for the licensing of drivers, vehicles and operators but the detail of how this is done, including standards and conditions, is the responsibility of individual councils. There are a number of other Acts which also have an impact; for example, the [Equalities Act 2010](#), which enables regulations to improve wheelchair accessibility to licensed vehicles.

Vehicles carrying over eight passengers are regulated by the Department for Transport, under the [Public Passenger Vehicles Act 1981](#).

In July 2020, the Department for Transport published [Statutory Taxi and Private Hire Vehicle Standards](#), that set expectations on all licensing authorities to meet the required set of standards, or publish reasons for not doing so. Licensing authorities in Oxfordshire are embedding these standards within their own policy frameworks where they are not already incorporated.

## 2.2 Deregulation Act 2015

On 1 October 2015 the Deregulation Act 2015 came into law.

[Section 10](#) introduced a requirement on licensing authorities to set a standard duration of three years for a taxi and PHV driver's licence and a standard duration of five years for a PHV operator's licence. A lesser period may be specified only if appropriate in a particular case.

In addition, [section 11](#) made changes to cross border hiring by allowing a PHV operator to sub-contract a PHV booking to another operator who is licensed in a different licensing district. The onus is on the original operator who accepts the booking and subsequently passes it on, to retain the liability for the satisfactory completion of that journey. It is also clear there is a duty on the operator who takes the booking to keep a full record and to report the full record of that journey. In effect this Act has reduced some of the safeguards operating previously due to cross-border hiring and the difficulties of maintaining high standards in areas when driver behaviour and vehicle conditions are governed by a licensing policy in another area.

## 2.3 Terminology

### 2.3.1 The Licensing Authority

Each Oxfordshire district council provides the licensing authority function for hackney carriage and private hire drivers, vehicles and operators within their local authority area. A private hire operator does not necessarily employ its drivers; it is common for them to be self-employed. A number of drivers may drive the same vehicle if they have the appropriate licence, and the vehicle proprietor holds the appropriate motor insurance.

It is the licensing authority's responsibility to:

- set the local framework including driver, vehicle and operator standards and conditions, and specifically for hackney carriages the tariffs and appropriate number of licensed vehicles
- consider applications and grant, refuse, suspend or revoke licences
- investigate and respond to complaints concerning hackney carriage or private hire drivers/operators
- undertaking inspection and enforcement activities of all licence holders

The licensing authority has the power to attach conditions to private hire drivers, private hire vehicles and private hire operators under the 1976 Act. Hackney carriage drivers and vehicles are dealt with by way of byelaws adopted following the 1847 Act. It should be noted that many Councils now issue hackney carriage and private hire driver 'dual' or 'combined' licences meaning that the conditions relating to private hire can be attached to such a licence.

### 2.3.2 Hackney Carriage Vehicles (HCV)

HCVs commonly known as taxis or cabs are able to wait on a taxi rank and be hailed on the street within the district within which they are licensed. The vehicle can only be driven by a hackney carriage driver licensed by the same authority as the vehicle. They can be booked directly by a customer or operate undertaking private hire bookings for a private hire operator licensed anywhere in the country.

### 2.3.3 Private Hire Vehicles (PHV)

PHVs include a range of vehicles such as minicabs, executive cars, limousines and chauffeur services. These vehicles must be pre-booked through a private hire operator and cannot legally be hailed on the street or wait on a rank. Should a passenger get in a PHV which has not been pre-booked the licensed driver is operating unlawfully and their insurance may be invalidated. The vehicle can only be driven by a private hire driver licensed by the same authority as the vehicle and operator, and all bookings must be provided to the driver by the operator.

### 2.3.4 Public Service Vehicles (PSV)

PSVs carry over eight passengers and are licensed by the Traffic Commissioner, not local authorities.

### 2.3.5 Taxi Licensing: A "Fit and Proper Person"

The "fit and proper" test considers whether a driver, operator or vehicle proprietor should serve the public, with particular regard to the range of passengers that a driver may carry. For example, the elderly, unaccompanied children, people with disabilities, those who have had too much to drink, lone women, foreign visitors and unaccompanied property. The test is centred upon:

**Honesty and trustworthiness** – drivers, operators and proprietors often have knowledge that a customer is leaving a house empty and have responsibilities for passengers who are vulnerable or do not know the locality.

**Not abusive** – drivers can be subject to unpleasant or dishonest behaviour. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels.

**A good and safe driver** – passengers paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of and comply with all Road Traffic legislation and conditions attached to the licence.

### 2.3.6 Enforcement

Councils do not have the power to stop vehicles; only the police can do this. Therefore, officers can only intervene when a vehicle is stationary, and they are unable to do anything if it drives off except follow up at a later date. Councils can only take action against a vehicle or driver that it has licensed, so **cannot** enforce against a vehicle or driver licensed elsewhere whilst operating in their area, **unless** they have been given delegated authority by the licensing authority. The only exception to this is where a criminal offence occurs, such as an unlicensed vehicle plying for hire, where the prosecution will be the responsibility of the council where the offence takes place.

### 2.3.7 Cross-border hiring

The biggest risk to the safety of the public and the reputation of the taxi and private hire trade, and in turn the reputation of Licensing Authorities is the legal loophole that allows a driver and vehicle to be licensed as hackney carriage by one licensing authority and operate as private hire vehicle in another authority's area. The driver does not require a licence from the licensing authority where the driver carries out work for the private hire operator who gives the driver bookings.

It is known that some applicants deliberately seek a licence from a district that the driver and vehicle have no intention of working within, in order to obtain either a) a cheaper licence, b) where standards are less robust, and c) to avoid being subject to compliance checks or enforcement.

The Local Government Association Councillors Handbook for Licensing explains as follows:

*This is a problem in many areas because there are disparities in conditions on licences; a prospective driver in one council district may apply to be licensed as a driver in another district because there are lower standards in driver testing, cheaper licence fees or less rigorous/fewer pre-licence checks.... when a taxi is being driven for PHV purposes in another district, the local council has no powers to intervene if the driver contravenes any condition of the licence or provides a poor service to the passenger; all that can be done is to write to the authority that issued the licence, where this is known. This practice is also unfair on the trade in the local area, as they may face competition from drivers who may have paid cheaper licence fees or undergone less rigorous checks elsewhere. These safeguards are rarely visible to consumers, who therefore cannot make an informed decision to use the more heavily checked and therefore safer, albeit more expensive, option.*

### 2.3.8 Enhanced DBS checks for taxi drivers

Drivers who work under contract to transport children (also known as school transport services) frequently i.e. once a week or more or more than 3 times in a 30 day period, are considered as partaking in regulated activity. This is a prescribed position in [The Police Act 1997 Criminal Record Regulations 2002](#) and therefore they are subject to an enhanced Disclosure Barring Service (DBS) check.

Even if a driver is not transporting children regularly, they still require an Enhanced DBS for the licensing authority with Adult and Children Barring List checks.

### 2.3.9 The Disclosures and Barring Update Service

Drivers are required to subscribe to the [DBS Update Service](#) to reduce costs and speed up checks. Drivers must register for this within 28 days after they has been issued with a Disclosures and Barring Service certificate. The service will then only supply information or list offences which have occurred after the date of that original check.

As a result, Licensing Authorities must ensure that the original DBS disclosure was made at an enhanced level, and have sight of that original report.

Authorities responsible for the transportation of children/adults with care and support needs must ensure that the update service subscription was based on an enhanced check for the role of a ‘taxi driver’ and they must have sight of the original DBS disclosure.

## 3. Oxfordshire’s Minimum Safeguarding Standards

### 3.1 Vetting

#### 3.1.1 Documents required to obtain a hackney carriage and private hire vehicle driver licence

All licensing authorities will ensure the following documents/processes are in place.

New licence	Renewal licence
Application form and identification documents for DBS application	Application form
<a href="#">Proof of right to work in the UK</a>	<a href="#">Proof of right to work in the UK</a>
Passport photographs for ID badge	Passport photographs for ID badge
Current licence to drive a motor vehicle held for minimum 12 months	Current licence to drive a motor vehicle
<a href="#">Safeguarding &amp; Disability Awareness Training through Oxfordshire County Council</a> (or equivalent training or qualification)	Training attended within last 3 years
Enhanced DBS check for ‘other workforce’ and ‘children and adults’ - driver must also sign up to the Update Service within 28 days of receipt of the DBS disclosure.	Satisfactory DBS Update Service check, or a new enhanced DBS check
Knowledge test (including safeguarding)	N/A
English language competency assessed, including verbal assessment. If spoken English is not deemed adequate application will be denied and referred to a spoken English course	
Medical report to <a href="#">DVLA Group 2 standard</a>	

### 3.1.2 Local Knowledge Test

New applicants must pass a knowledge test, devised so that applicants can prove that they have sufficient knowledge of the conduct required of licensed drivers and local traffic regulations, and display an awareness of the issues relating to the safeguarding of children and vulnerable persons.

It covers the following areas:

- The local geography of the district and surrounding region, including the location of public buildings such as hospitals, leisure centres and important regional transport links such as airports or train stations.
- The Councils' hackney carriage and private hire licensing policy (as set out in this handbook), taxi law.
- The Highway Code.

There is an 80% pass mark. If the test is failed the driver will be invited to take the test again after a further test fee has been paid, and then allocated a retest date.

English language competency is also tested as part of this process.

### 3.1.3 Disability Awareness and Safeguarding Training (DAST)

A training course has been developed and commissioned by Oxfordshire County Council for all drivers and passenger assistants. This includes:

- Safeguarding
- Human trafficking
- Child sexual exploitation
- Exploitation of vulnerable persons
- Code of Conduct
- Disability Awareness

The current training manual is available on the [Oxfordshire County Council website](#) and on request. Training is provided in face to face workshops followed by a written assessment.

- The programme is available to all districts and drivers need to renew their training every three years. No driver is able to renew his/her school transport badge when it expires (3 year badge) unless the training has been undertaken in the previous 3 years.
- All existing drivers have either attended the training or are booked to attend, and all new drivers are required to attend before a licence is issued.
- In addition, South and Vale require operators and their booking staff to attend the training.
- Cost of the training is £50 per person. Drivers pay upfront on-line and charges are not refunded for non-attendance at pre-booked courses.
- All Investigating Officers attend generalist safeguarding training through OSCB and each licensing authority ensures that one officer has attended the specialist designated lead training to advise and support other officers.
- Oxfordshire County Council Supported Transport Service have two Designated Safeguard Leads.



### **3.1.4 Vetting to become approved transport provider with the County Council for children and adults with care and support needs**

Taxi drivers who work under contract to transport children frequently are considered as partaking in regulated activity and so a second DBS will be undertaken potentially providing additional intelligence because the driver is to have substantive contact with children. This check falls within the requirements of regulated activity, and as such the check must be listed as 'driver' on the DBS application and must be listed as 'child and adult workforce' on the DBS application. By specifying 'driver' on the DBS the level of information on the enhanced report is not restricted.

When a driver applies for a badge or renewal with the county council, the vetting process covers the following:

- Collation of full details on the driver.
- Information sharing with the licensing authority
- Enhanced DBS checking through initial face to face appointment to check documents
- Checks on whether the driver is known to Children's Social Care because of any safeguarding concerns regarding his/her own family.
- Risk assessment if there is a concern following process identified in g) below.

### **3.1.5 Drivers/Passenger Assistants**

There is no difference in the processes for vetting, training and supporting passenger assistants/drivers by Oxfordshire County Council.

## **3.2 Client Risk Assessment (Passenger Passport)**

- Oxfordshire County Council has in place a programme of Risk Assessment for all Special Educational Needs and Disability (SEND) passengers conveyed on Oxfordshire County Council commissioned services.
- To initiate a passenger Risk Assessment a Transport Information Form is collated with information from the parent, carer or social worker. This process gathers relevant information including a photo of the client as well as their medical and behavioural needs to enable the Risk Assessment to be completed.
- Following the completion of the Risk Assessment a passenger passport is then produced. This is attached to the student's school bag, with a copy being retained by the Service Provider.

## **3.3 Suitability of applicants and licence holders**

All past convictions, warnings, reprimands, cautions, community service orders, restraining orders and fixed penalties (including traffic offences), civil remedies and anti-social behaviour notices will be considered against Home Office guidelines. The Rehabilitation of Offenders Act 1974 as amended by the Legal Aid, Sentencing and Punishment Act 2012 sets out the period after which all convictions, warnings, reprimands, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) are regarded as 'spent' and which would not normally necessitate disclosure.

In 2002 the Rehabilitation of Offenders Act was amended so as to exclude hackney carriage and private hire drivers from the effects of the 1974 Act. Applicants for such licences are now required to disclose all convictions, warnings, reprimands, cautions, community service orders, restraining

orders and fixed penalties (including traffic offences) including those that would previously have been regarded as spent under the Act. Existing licence holders must also declare new convictions, cautions etc within 48 hours.

Licensing authorities will require through the driver licence conditions that a driver must inform the police that they are a taxi driver when arrested or interviewed under caution.

In every case the individual facts will be considered in accordance with the criteria set out in policies. All Oxfordshire licensing authorities adhere to the DfT Statutory Standards regarding convictions. The conviction-free period differs depending upon the offence, but even taking that into account an authority may refuse a licence if they are not satisfied the person is fit and proper. The standards are a minimum, rather than a maximum.

Any decision to depart from their policies should be taken only following legal advice, and any such decision and reasoning should be clearly documented.

### **3.4 Compliance and enforcement**

#### **3.4.1 Code of Conduct for private hire and hackney carriage drivers and drivers and passenger assistants of contract holders at the County Council**

The Code of Conduct is made available to all drivers and passenger assistants. Failure to comply with the Code of Conduct will result in a review of the Identification Badge and appropriate action will be taken (as set out below). Information sharing arrangements across the districts and county council are included in the Code of Conduct. Where appropriate, non-compliance will be brought to the attention of the relevant licensing authority.

#### **3.4.2 Enforcement Procedures for Licensing Authorities**

Each case is reviewed on its own merits in accordance with the district council enforcement policy. Typical enforcement actions would range from:

- Issue of penalty points
- Standard warning
- Final warning
- Suspension or revocation of the licence, either by officer or sub-committee
- Prosecution (or caution) for criminal offences

#### **3.4.3 Enforcement and Quality Monitoring for Oxfordshire County Council Supported Transport Service**

- Quality assurance processes are in place to ensure the Local Authority Designated Officer (LADO), the Supported Transport Service, Disabled Children Manager and the Adult Social Care Safeguarding Manager review complaints and investigations regularly.
- Complaints are classified by Category Level 1- 4 based on number of complaints, level of seriousness, compliance with contract requirements and any other soft information. A serious complaint of safeguard issue would be Category 4 and as such would be prioritised.
- Providers are risk managed, Red, Amber and Green. Providers rated as Amber are given a specified time period to make agreed improvements.
- The Information Sharing Schedule (Appendix 1) requires the Supported Transport Service to notify the appropriate licensing authority of all substantiated concerns, in order that the licensing

authority can consider the “fit and proper” status of the driver, vehicle, operator, in order to uphold its public safety and safeguarding objectives.

### **3.4.4 Risk Management Process**

Where there is a concern as to suitability of an individual to continue to hold a licence, the licensing authority and county council will follow the risk management processes detailed below.

#### **The Licensing Authority Process**

- Where it is considered that there is a concern (e.g. a new conviction) and that action may be required, investigation and risk assessment will be undertaken based on seriousness of the offence. Depending on risk level a recommendation may be made to a sub-committee/officer with delegated powers to determine outcome.
- There is a right of appeal through the courts against suspension or revocation.
- District Councils will share information throughout the process with the Supported Transport Service who undertake further checking, including with the LADO and Adult Safeguarding.

#### **Oxfordshire County Council Process**

A driver is required to bring a copy of the DBS Disclosure and completed questionnaire.

Risk Assessment Panel meeting is held to consider the risk (based on the scoring set out in the County Council Risk Assessment Guidance).

- Panel to make a recommendation;
- A decision letter is sent including information on how to Appeal;
- Appeal meeting with an Independent Panel of senior managers;
- A decision letter is sent giving information on how to Appeal.

### **3.4.5 Information sharing where there is a new offence**

See Appendix 3 for details of how Thames Valley Police will share information with County and district councils.

At the conclusion of an on-going police investigation the licensing officers should not merely accept a No Further Action letter or Not Guilty finding, if the police have been unable to share adequate information then there needs to be an application for a new DBS certificate, as the threshold for prosecution or conviction is not the same as the “fit and proper person” test. The DBS may reveal Additional Information relevant to the decision-making process (a licensing authority may ask the individual to cover the cost of a new DBS).

## **4. Information Sharing**

The Information Sharing Schedule for the exchange of transporting children/vulnerable adults and taxi licensing information sits under the Information Sharing Protocols of the Oxfordshire Safeguarding Children Board, the Oxfordshire Safeguarding Adults Board and the Oxfordshire Safer Communities Partnership and can be found at Appendix 1.

The Schedule supports the exchange of information necessary to prevent and detect crime, and support and protect children and vulnerable adults.

Information exchanged between licensing authorities and Oxfordshire County Council ensures that decisions on complaints, enforcement, suspension and revocation, convictions and public safety concerns are shared in a secure and timely manner on a formal basis, and prevents drivers at risk of losing a licence at one authority from simply obtaining a licence from a neighbouring authority.

The information is used to risk assess drivers, investigate complaints fairly and proportionately and ensure that those denied licences or having a licence revoked in one area are not able to get a licence in another Oxfordshire authority.

Informal information sharing takes place between the district councils and the county council to ensure that there is a joined up approach to manage issues regarding vehicle quality, health and safety, driver behaviour and safeguarding, using the county council's risk categories 1 to 4 as a guideline.

Each Local Police Area must have an arrangement to regularly identify and pass on information of concern, as governed by the common law duty. Data sets to be reviewed include Command and Control, Niche and Custody systems.

Oxfordshire County Council has no powers to enforce or undertake investigations regarding the licensing of vehicles, operators or drivers. Such matters are passed to the Districts and Police who do have the powers to enforce and investigate. They can and do determine the suitability of a driver working on a contracted service.

Failure to share information results in drivers / vehicles / operators continuing to carry children, vulnerable persons, and all of the public when action could have been taken to remove them from being able to.

All allegations concerning those who work with children are passed to the LADO and Adult Safeguarding without delay. Details are included in the Information Sharing Schedule in Appendix 1.

## 5. Policy Alignment and Intended Use Policy

Licensing Authorities will:

- Identify and address key policy differences, thus removing some of the incentives to be licensed elsewhere. To this end, Oxford City Council has removed its age limit criteria, introduced a discount for "green" vehicles, and changed its livery and vehicle requirements.
- Consider ways to reduce the incentives that result in drivers and vehicle owners seeking a licence from an area that they have no intention of working within, but without placing stresses on the resource levels available to councils.
- Consider refusal of hackney carriage vehicle licence applications where there is clearly no intention to work in the licensing authority district. This will be easier for renewal licences where evidence has been gathered by neighbouring authorities, and in effect a simple way to achieve this is for officers to pass on information to their neighbours when they see a vehicle licensed by one council but liveried with the identity of an operator licensed in another area.
- Drivers found to be parking in prominent positions to ply for hire, or are predominantly working in a neighbouring licensing authority area will be subject to the enforcement protocol detailed in Appendix 4.

## **6. Delegated Enforcement and Joint Operations**

Licensing authorities, where appropriate, will delegate authority to enforce taxi licensing legislation. Relevant training in the licensing conditions must be provided. Licensing Authorities must contribute to an annual schedule of enforcement operations in areas where “out of town” vehicles are operating.

Licensing Authorities undertake regular enforcement operations with Oxfordshire Supported Transport Service to address issues relating to school transport and the transportation of adults with care and support needs.

## **7. Performance Management Framework**

A range of performance measures have been agreed to monitor the effectiveness of the Joint Operating Framework.

This Performance Framework (see Appendix 2) is presented to the Child Exploitation Sub-Group of Oxfordshire Safeguarding Children Board.

If one agency is concerned about how any partner is operating within this framework there is the opportunity to escalate either within that organisation or through Oxfordshire Safeguarding Children Board/Oxfordshire Safeguarding Adults Board escalation routes.

## **8. Health Partners**

No local health organisations commission patient transport for children locally, except South Central Ambulance Service who have robust arrangements in place.

There is no need for local health organisations to commission patient transport for adults with care and support needs.

## **9. Neighbouring Authorities**

The Chair of OSCB has written to all Local Safeguarding Children Boards in the south east to request that they adopt similar arrangements.

## Appendix 1: Information Sharing Schedule



This information sharing agreement should be **read and applied** in the context of the information sharing policies adopted by:

- The Oxfordshire Safeguarding Children’s Board
- The Oxfordshire Safeguarding Adults Board
- The Oxfordshire Safer Communities Partnership

The information exchange process is subject to the provisions of the [Data Protection Act 2018](#) and the common law duty of confidentiality. The information must not be used for any purpose other than that for which it is requested and must not be disclosed to an unauthorised person.

Information will only be shared as relevant and necessary.

The statutory powers to exchange information are set out in the information policies approved by the Safeguarding Boards and the Safer Communities Partnerships. That is:

- *Adult Safeguarding: Sharing Information* (Social Care Institute for Excellence)
- *Oxfordshire Safeguarding Children’s Board Information Sharing Protocol*
- *Oxfordshire Community Safety Information Sharing Protocol*

In particular, information sharing under this agreement will conform to the *Seven Golden Rules of Information Sharing* which are outlined in each of the above policies.

The process for exchanging information for the purpose of hackney carriage and private hire safeguarding and public protection will be those described in the associated Oxfordshire Safer Communities Partnership Information Sharing Protocol.

No information is to be accessed or shown to individuals who have not agreed and signed the Confidentiality Agreement. Any breach in confidentiality may result in sanctions described with the Confidentiality Declaration outlined at the end of this document. No information provided by partners to those procedures will be released to any third party without the permission of the owning partner.

Before a decision is made about disclosure, a professional must consider the following factors, based on case law decisions:

- Belief in the truth of any allegation
- Legitimacy of the interests of the person needing this information
- Degree of risk if disclosure is not made
- Relevance and importance of the information
- Urgency of the disclosure
- Whether consent for the disclosure has been sought (if appropriate)
- Interests of the vulnerable person or persons
- Impact upon the person to whom the information relates

**Should this agreement at any time be required to be terminated the instigating Designated Officer must notify all relevant parties.**

<b>Name of Designated Officer instigating this procedure</b>	
<b>Post of Designated Officer</b>	
<b>Date instigated</b>	<b>Review date</b>
<b>Schedule title</b>	
Information Sharing Agreement (Hackney Carriage & Private Hire)	
<b>Information sharing process</b>	
<p><i>(Please show how personal information is <u>necessary</u> to enable the appropriate authority to carry out their respective duties in relation to the regulation of contracts to transport vulnerable children and adults, and to the regulation of taxi licensing across Oxfordshire. Information sharing would be used directly to facilitate:</i></p> <ul style="list-style-type: none"> <li>• <i>driver, vehicle and operator vetting processes</i></li> <li>• <i>reviewing the status of current licence holders and new applicants,</i></li> <li>• <i>to prevent crime and disorder, and</i></li> <li>• <i>to uphold our safeguarding obligations)</i></li> <li>• <i>to assist those authorised to make decisions as to the suitability of an applicant or the continuing suitability of a current licence or badge holder where information is required to promote public safety</i></li> </ul> <p>The purpose of the information sharing is informed by the following context:</p> <ul style="list-style-type: none"> <li>• All drivers licensed by the District Councils and those seeking to carry out transport services on behalf of the County Council are required to undertake an Enhanced Disclosure &amp; Barring Services Check.</li> <li>• All drivers licensed by the District Councils are subject to enforcement actions taken following complaints made against them, or matters witnessed by Officers.</li> <li>• Suspending or revoking a County Badge does not stop the driver from still doing all other work given to him/her by the Operator.</li> <li>• A vehicle identified as being unfit for purpose will still be used if the correct authority is not informed.</li> </ul>	

- An operator who may be carrying on illegal activities will still pose a threat to safeguarding and public safety if the other authorities are not informed.
- Revoking a licence may result in the person seeking a licence from a neighbouring District.

**Types of information exchanged under this Information Sharing Procedure**

- Details of licences / badges suspended, refused or revoked (drivers, vehicles, operators)
- All substantiated outcomes that relate to the following categories:
  - Driver Behaviour
  - Road Traffic Accident
  - Overloaded Vehicle
  - Un-badged Driver
  - Undersized Vehicle
  - Unlicensed Vehicle
  - Vehicle Condition
- Details of criminal investigations undertaken by Police and shared with any of the Authorities and County Council
- Matters witnessed by Officers / complaints received that would lead to concerns in relation to public safety
- Matters witnessed by Officers / complaints received that would lead to concerns in relation to the safeguarding of children, young persons and vulnerable adults
- References by Licensing Authorities to County Council in relation to applicants for County badge

**Transmission, storage and retention period of data exchanged under this information sharing process**

- Any information printed off will be kept in the file in a locked drawer or cabinet, or electronically with access only provided to such persons authorised to see such information.
- All papers that are shared will be encrypted and security marked.
- Information shared in the categories identified will be on the secure ‘operational’ spreadsheet between District Councils and the Supported Transport Service and will be shared in a timely manner.
- Information shared verbally will be further supported in written form to ensure accuracy.
- Information shared by those signed up to this agreement will be the responsibility of the delegated officer giving it and receiving it.
- No information will be held for longer than is necessary in accordance with each authority’s retention schedules and relevant statutory provisions.

**Licensing managers, their officers, Thames Valley Police and the County Council Supported Transport Service and LADO are responsible for sharing the information**

I have read and understand the Confidentiality Agreement

**For Office use only**

Organisational Signatories agreed  Schedule meets ISP Requirements

Copy all Confidentiality Agreements received

<b>Schedule Reference:</b>	
<b>Organisation holder:</b>	
<b>Initiating Designated Officer:</b>	
<b>Review date:</b>	



## POWERS AND RESPONSIBILITIES OF PARTNERSHIP AGENCIES:

DISTRICT	POLICE	COUNTY
License all hackney carriage & private hire drivers, vehicles, & private hire operators	Investigate criminal activity by all	Issue school transport badge to drivers working through contracted operators
Have power to refuse, enforce conditions, suspend, revoke, prosecute all licences	Have power to arrest, prosecute, recommend licence be suspended / revoked by district	Have power to refuse, suspend / revoke badge, & cancel contract with operator
Have power to inspect vehicles, seize records	Have power to inspect vehicles, seize records	N/A
Protecting all of the public	Protecting all of the public	Transporting children and vulnerable persons
Receive complaints about drivers, vehicles & operators	Receive complaints about drivers, vehicles & operators	Receive complaints about drivers & vehicles
Power to caution (council), convict (court), suspend / revoke based on complaints (committee or officer if delegated)	Power to caution or convict (via court)	N/A

### Sharing of information: when to ask and when to give information

#### County Council:

- All applicants for new badge / renewal of badge: add in to vetting process “check with District” re: enforcement / complaint history.
- Any substantiated outcomes identified in the categories in ‘Types of Information Exchanged’ above about a driver / vehicle / operator.
- Any complaint relating to criminal activity to be shared with Police and District.
- Any additional relevant information arising from the county council DBS checking process.
- Any information arising from request for additional check if there is a conviction to inform the District’s risk management decision making.
- All relevant safeguarding concerns relating to a driver or operator to be shared with the appropriate licensing authority(s).
- All allegations relating to a driver working with children or adults with care and support needs must be sent to the LADO or Adult Safeguarding within one working day.
- All relevant safeguarding information to be provided by the LADO or Adult Safeguarding upon receipt of a request from a licensing officer, in support of a sub-committee report. Appeals are heard within a Magistrates’ Court and are held in the public domain.

#### District:

- Any request from County for their applicants re: enforcement / complaint history
- Any request from Police for their investigations re: enforcement / complaint history

- Any request from Police for driver / vehicle / operator details
- Any substantiated complaint relating to driver / vehicle re: public safety to be shared with County Council
- Any complaint relating to driver / operator re: criminal activity to be shared with Police (if also relates to public safety to be shared with County Council)
- Any driver / operator whose licence has been suspended or revoked to be shared with other Districts and the County Council
- All allegations relating to a driver known to be working with children or adults with care and support needs must be shared with the County Council
- Any driver / operator issued sanctions by sub-committee to be shared with County Council

### **Police:**

- Any requests from District for PNC Check as part of vetting process / Committee process.
- Any complaints about drivers / vehicles / operators to be passed to Districts and County.
- Any investigation into driver conduct, vehicle standards, operator obstructing Police obtaining information, to be shared with Districts and County.
- Any driver arrested or charged (any reason) / stopped (motoring offences) to be shared with District and County.
- Any bail conditions applied to drivers to be shared with District and County.
- Any cautions / convictions to be shared with District and County.

### **Annex on Information Sharing: Information Sharing with the Local Authority Designated Officer (LADO) and Adult Referrals**

“Working together” (2015) requires that arrangements should be put in place to ensure that any allegations about those who work with children are passed to the LADO without delay. There are similar requirements for adults with care and support needs in the Care Act 2014.

The local authority has in place arrangements to provide advice and guidance on how to deal with allegations against people who work with children.

The role of the LADO is to ensure that there are appropriate arrangements in place and to effectively liaise with the police and other agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process. The LADO also has a role to challenge organisations whose processes are not fair open and compliant.

A licensing authority should ensure that the LADO is informed, within one working day, of all allegations that come to their attention. Appropriate referrals should be made directly to the LADO or through the safeguarding lead for transport.

*Contact details as follows for children:*

For LADO telephone: 01865 815956 or [lado@oxfordshire.gov.uk](mailto:lado@oxfordshire.gov.uk) or to discuss general safeguarding concerns call Supported Transport Service on 01865 323500 or email Transport Quality Monitoring at [qmcc@oxfordshire.gov.uk](mailto:qmcc@oxfordshire.gov.uk)

All referrals relating to concerns about a child's welfare, where the concern does not relate to someone who is employed or volunteering in a position with children should be referred directly to the MASH in line with agreed existing protocols [mash-children@Oxfordshire.gov.uk](mailto:mash-children@Oxfordshire.gov.uk) or 0345 050 7666

*Contact details as follows for adults:*

Please call the Adult Safeguarding Team on 0345 050 7666 then pick option 4

## **Information sharing**

Information will be shared with district councils in line with legal requirements and locally agreed protocols. The basic principle is that the child's welfare is paramount, and information will be shared where there is any potential safeguarding risk to a child or children identified in relation to a driver or a passenger assistant. The normal process would mean that if this individual or individuals have their Oxfordshire County Council badge removed, the appropriate district or districts will be informed of the reasons for this and the actions taken. In certain circumstances where there is a sensitive criminal investigation and at the request of Thames Valley Police, where they consider releasing information may interfere with an investigation, Oxfordshire County Council will not disclose until such time as agreement is reached with police.

The LADO role is a statutory role and the process around this also statutory, so it is important the LADO is informed about any allegation where the concern relates to a potential risk to children. This means that there should be a two-way flow of information in line with the agreed protocol but requires referrals to and info to be shared with the LADO where the referral criteria are met.

These criteria are; any adult employed or volunteering in a position where there is access to children where the adult is alleged to have:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children

The requirements in the statutory guidance require organisations to make referrals under the above criteria within 24 hours so in the norm referrals should come straight to the LADO rather than MASH. It is then for the LADO to involve Police and or social care and other agencies as appropriate.



## Appendix 2: Performance Framework

	Measure	Explanatory Notes:
1a	Number of licensed taxi drivers at the end of the quarter	The number of taxi drivers licensed to the District as at the last day of the quarter
1b	Number of drivers licensed during quarter	The number of new or renewed taxi driver licences completed during the quarter
1c	Total number of vehicles licensed at end of quarter	The number of taxis licensed to the District as at the last day of the quarter
1d	Number of vehicles licensed during quarter	The number of new or renewed taxis completed during the quarter
2a	Number of complaints received	The number of ALL taxi complaints received by the district during the quarter - <b>whether related to own drivers or drivers licensed elsewhere</b> . It is the sum 2b+2c below
2b	Complaints on drivers licensed to your authority	The number of taxi complaints received by the district during the quarter - <b>related to drivers licensed to the District and/or not licensed elsewhere</b> . It is the sum of 2d+2e+2f below
2c	Complaints on drivers licensed outside your authority	The number of taxi complaints received by the district during the quarter - related to drivers <b>not licensed to the District</b> . This is also those with "referred to other LA" as an outcome
2d	* Substantiated complaints received	Any complaints where action taken ( <b>only for drivers licensed by the District</b> )
2e	* Unsubstantiated complaints received	Any complaints recorded as NFA outcome ( <b>only for drivers licensed by the District</b> )
2f	* Ongoing complaints under investigation	Any complaints not yet closed ( <b>only for drivers licensed by the District</b> )
3	No. of referrals made to MASH or LADO for children or adult safeguarding for adults relating to concerns about a driver	
4	No .of drivers who have received the appropriate safeguarding training (either e-training or course attendance) in the last 3 years	All current licensed drivers trained in the last 3 years
	Proportion of all licensed drivers who have been trained in the last 3 years	This is the numbers of drivers trained as a percentage of the total drivers at the end of the quarter. It is a calculated field

5a	Number of driver specific enforcement cases	Total number of the next <u>six</u> rows – these actions would be as a result of a breach of law, licence condition or similar (not complaints)
5b	* Declined/refused	Any driver applications refused or rejected in quarter
5c	* Suspensions	Any drivers suspended in quarter (even if subsequently lifted)
5d	* Revoked	Any drivers revoked in quarter
5e	* Other	Total number of any written warnings issued or prosecution files submitted as a result of a breach of law or licence condition (NB this does not include warnings issued as a result of a complaint or notifications such as out of date first aid kit or bald tyres etc.)
5f	* NFA	Any breaches identified where no action taken – for example if driver licensed elsewhere, or licence subsequently surrendered
5g	* Enforcement Cases still to be determined	Enforcement cases currently pending – no action taken yet
6	Number of drivers revoked or refused on one areas applying elsewhere	These are counted by each District - even if it means counting the same driver more than once
7	* Number of concerns raised by the Supported Transport Service /Quality Monitoring team shared with the licensing authority	
	* Number of concerns raised by the licensing authority shared with the Supported Transport Service/Quality Monitoring team	
8	* Number of occasions of formal information sharing by the licensing authority with the police	
	* Number of occasions of formal information sharing by the police with the licensing authority	

NB All figures are updated and collated quarterly.

# Appendix 3: Thames Valley Police Taxi Driver Information Sharing Operational Guidance

## 1.0 Taxi Licensing Authority

1.1 Taxi Licensing Authorities are created by the Local Government (Miscellaneous Provisions) Act 1976 and incorporated within the lower tier of Local Authorities, usually the district council. Their overarching purpose is to protect the public from harm.

1.2 They achieve this by issuing licences in accordance with a 'fit and proper' test, as required by the Act. Investigating breaches of licences and applying appropriate sanctions. Serious breaches and unsuitable applications not in accordance with the council's policy are heard by a sub-committee of local councillors using a quasi-judicial process. Appeals are usually heard by the Magistrates' Court and ultimately at Crown Court.

1.3 The Secretary of State for Transport has published the [Statutory Taxi & Private Hire Vehicle Standards – July 2020](#). This document was published in the light of the Jay Report into child sexual abuse in Rotherham. It has a clear and unequivocal emphasis on safeguarding and highlights the necessity of effective and efficient information sharing procedures and protocols.

1.4 Information sharing with the police enables a Licensing Authority's to fulfil its statutory obligations to protect the public. This is achieved through an established process:

- Community Safety and Safeguarding partnership structures share information to identify threat, risk and harm regarding a driver's behaviour.
- Immediate safeguarding and public protection activities are taken by the Licensing Authority, for example, the immediate suspension of a driver's licence pending further investigation.
- An investigation into the driver's on-going risk and the determination of a proportionate interventions by the Licensing Authority.

1.5 The Local Govt. Misc. Provisions Act 1976 provides the necessary judicial safeguards to ensure Licensing Authorities use relevant information proportionally and in compliance with data protection requirements.

## 2.0 Crime and Disorder Act 1998

2.1 Police and all Local Authorities are 'Responsible Authorities' as defined in the Crime and Disorder Act 1998 and have a duty to do all they reasonably can to prevent crime and disorder.

2.2 Section 115 of the Crime and Disorder Act 1998 provides the lawful power to disclose information to a relevant authority. The power is qualified by the requirement that the sharing is necessary or expedient for the purposes of the Act.

2.3 Existing information sharing agreements using the Crime and Disorder Act 1998 can be used for the exchange of information relevant to taxi drivers. These agreements used by

Community Safety Partnerships, Multi-agency Safeguarding Hubs and Child Abuse Strategy Meetings are designed to share appropriate information with partners.

2.4 Section 115 does not, however, override the need to disclose in a proper manner, taking into account other statutory and common law constraints on disclosure, including data protection, human rights and the common law.

### **3.0 Necessity for Disclosure**

3.1 Personal information will only be shared when it is necessary to do so to achieve the intended outcome / objective. An intended outcome will include assisting the Licensing Authority to fulfil its statutory responsibilities under the Local Government (Miscellaneous Provisions) Act 1976, as well as allowing police and partners to fulfil their safeguarding and public protection duties under the Children Act 2004 or the Care Act 2014.

3.2 The necessity test should be seen as an enabler to sharing of information where the intended outcome is the reduction of crime and disorder and protecting the public from harm.

3.3 The following criteria will be considered in deciding whether the sharing is necessary:

a) Where the disclosure could affect the subject's ability to retain / gain employment consideration will be given to whether the concerns about the alleged risk the subject poses is actually a relevant risk factor in respect of their profession. Crime, anti-social behaviour and safeguarding incidents involving licensed drivers may be relevant to risk.

The definition of whether the Taxi Licensing Authority can 'use' the information supplied should not be confined to its narrow use in a judicial setting. The Licensing Authority may aggregate several sources of information as a basis for decision making within its system of escalating intervention and sanction.

b) The recipient of the shared information must be able to use the information to prevent or detect crime or reduce the safeguarding risk.

c) The reliability of the information must be understood before sharing (careful consideration should be given before sharing uncorroborated information or information from an unknown or unreliable source).

d) The sharing must be proportionate to the intended outcome / objective and include no more information than necessary (e.g. the age of historic information may make it no longer relevant, limiting information provided to the minimum necessary to appropriately represent the risk, redacting the personal information of any 3rd party persons where possible).

e) Where the personal information being considered for sharing has previously been considered for disclosure under the Disclosure & Barring Service scheme or the Common Law Policing Disclosure scheme but has not been disclosed, there must be a clear defensible rationale for sharing where it is now intended to disclose the same information outside of those schemes.

## **4.0 Local Authority Designated Officer**

4.1 Disclosure of information regarding the safeguarding of children should be passed to the Local Authority Designated Officer (LADO). Safeguarding information regarding adults with care and support needs should be passed to the Local Authority Adult Social Care Team.

4.2 The location of the LADO within the Local Authority structures varies across the Thames Valley region. In these circumstances best practice requires the disclosure of information to both the LADO and the Taxi Licensing Authority.

## **5.0 Taxi Licensing Coordinator – TVP**

5.1 This post is funded by the PCC and sits in the business area of Force Intelligence and Specialist Operations.

5.2 Its purpose is to promote the safety of taxi drivers and their customers. To work in partnership to support all the Local Authorities in their duty to manage and review taxi licenses. To assess, record and share intelligence in relation to taxi licensing matters and increase the consistency of service across all Local Police Areas.

This post is not designed to be a funnel or bottleneck for information exchange with Local Authorities. Partnership arrangements such as Community Safety Partnerships, Multi agency Safeguarding Hubs and Child Abuse Strategy Meetings should continue to share appropriate information with partners using existing information sharing agreements. The Taxi Licensing Coordinator should be copied into any relevant information exchange and will act to facilitate the exchange and offer advice where necessary.

## **6.0 Common Law Police Disclosure**

6.1 The police possess a common law power to share personal sensitive information with third parties where a 'pressing social need' can be established. A pressing social need might be the safeguarding, or protection from harm, of an individual, a group of individuals, or society at large.

6.2 [This power](#) is usually triggered on arrest or voluntary interview and can be used with any notifiable occupation including Taxi Drivers.

6.3 Any decision to disclose police information must balance the rights and interests of the individual who is the subject of the disclosure against those of the public in general or any specific member or members of the public. That will involve giving consideration to the impact of disclosure on the private life of the individual concerned. Decisions should also take account of any adverse impact disclosure might have on the prevention or detection of crime.

6.4 The decision to disclose personal information using CLPD does not preclude the need for a 'necessity test' and there should be due regard to the Data Protection Act 2018, the Human Rights Act 1998 and the Rehabilitation of Offenders Act 1974.



6.5 Predominantly the TVP Disclosure and Barring Service will carry out initial notification using this power. However there will be circumstances when the arresting or investigating officer will be responsible for making an urgent disclosure. This will usually be at weekends when urgent safeguarding action is required.

The Disclosure and Barring Service conduct daily automated checks of the custody system searching for notifiable occupations and relevant offences. If employers or licensing authorities are notified by DBS then the OIC will also be notified via NICHE and actioned to update the employer / licensing authority at key milestones of the investigation.

## **7.0 Disclosure of documents**

7.1 When disclosure is made under the Crime and Disorder Act 1998 or Common Law Police Disclosure the officer in the case may disclose relevant documentary evidence to the Taxi Licensing Authority such as statements, Body Worn Video, MG 5 and Command and Control Logs. These documents should be subject to a process of sanitisation and contain only such information as necessary for the Taxi Licensing Authority to carry out its statutory obligations.

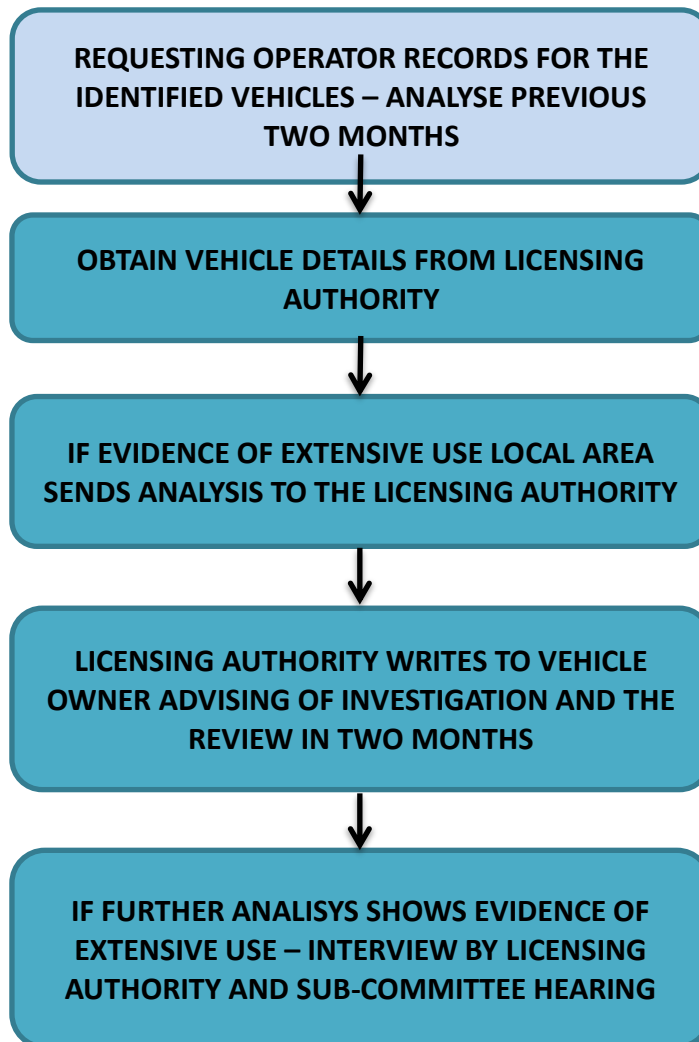
7.2 The officer in the case should gain authority from their supervisor and advice from the Taxi Licensing Coordinator before the disclosure of documents.

7.3 The officer in the case should not disclose the content of intelligence reports or make reference to them in any police statement. Contact the Force Intelligence Hub supervisor for advice on the management of intelligence documents.

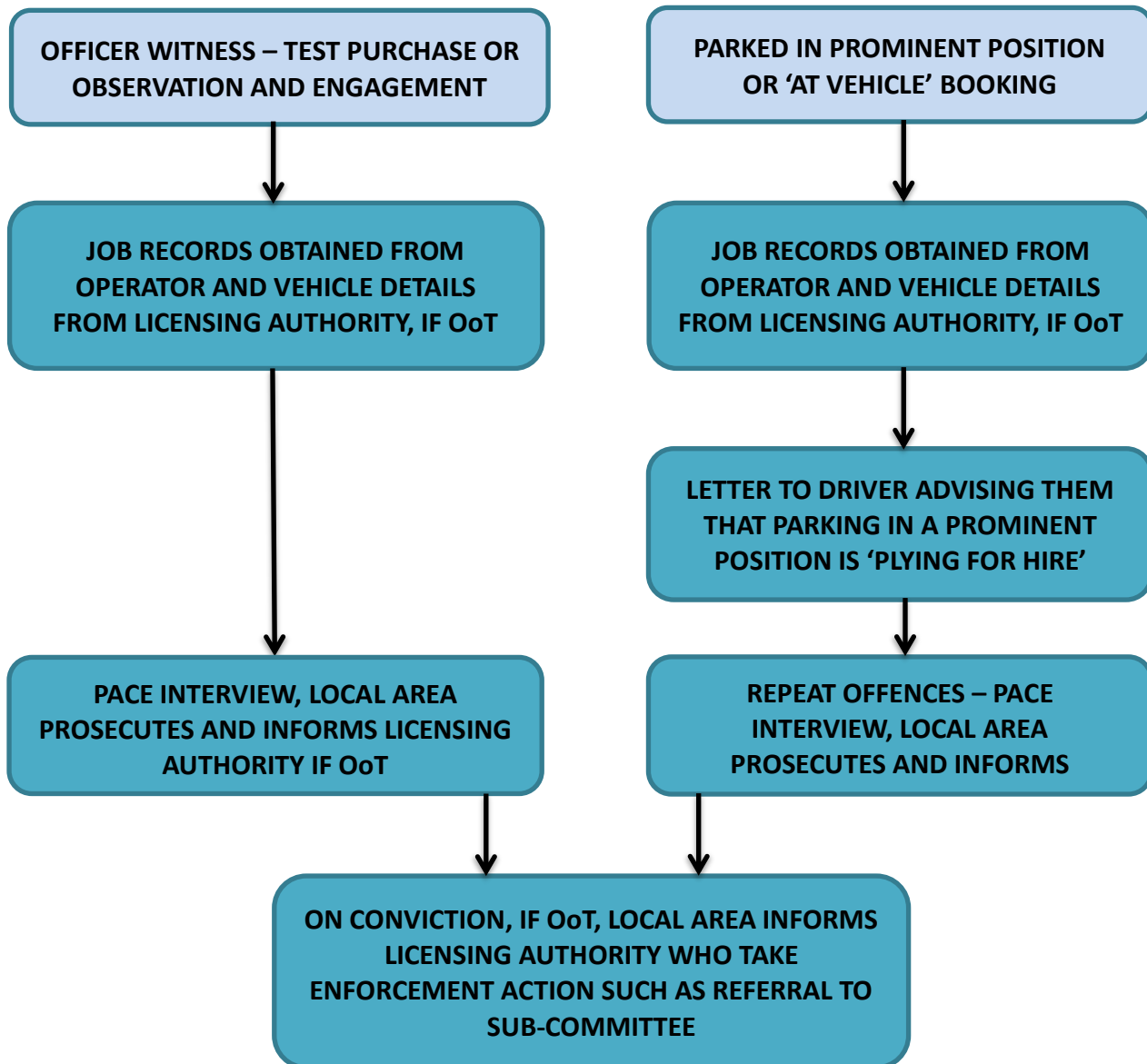
The Joint Information Management Unit should be consulted when disclosure falls outside the scope of the Crime and Disorder Act 1998 and is considered 'Non Operational'. Outside Agencies may be charged for 'non-operational' disclosures

## Appendix 4: Enforcement protocol for plying for hire and taxis predominantly working out of area

### OXFORDSHIRE JOF ENFORCEMENT PROTOCOL: OUT OF TOWN VEHICLES SUSPECTED OF PREDOMINANTLY WORKING IN ANOTHER DISTRICT



**OXFORDSHIRE JOF ENFORCEMENT PROTOCOL: PLYING FOR HIRE – PROSECUTION LED BY AUTHORITY WHERE OFFENCE TOOK PLACE**





**LICENSING COMMITTEE**  
**Monday, 16 October 2023**

<b>Subject</b>	Street trading in East Suffolk
<b>Cabinet Member</b>	Councillor Jan Candy Cabinet Member with responsibility for Community Health
<b>Report Author(s)</b>	Martin Clarke Licensing Manager and Housing Lead Lawyer <a href="mailto:Martin.clarke@eastsoffolk.gov.uk">Martin.clarke@eastsoffolk.gov.uk</a>
<b>Head of Service</b>	Chris Bing Head of Legal and Democratic Services <a href="mailto:chris.bing@eastsoffolk.gov.uk">chris.bing@eastsoffolk.gov.uk</a>
<b>Director</b>	Kate Blakemore Strategic Director <a href="mailto:kate.blakemore@eastsoffolk.gov.uk">kate.blakemore@eastsoffolk.gov.uk</a>

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.	Not Applicable
<b>Wards Affected:</b>	All Wards

## Purpose and high-level overview

### **Purpose of Report:**

Licensing Committee is asked to review the Council's Street Trading Policy within its district of East Suffolk.

### **Options:**

1. Leave the existing street trading arrangements as they are, meaning that the current differences between the North and the South of the district would remain.
2. Approve a consultation to either bring the South of the district in line with the North, or the North of the district in line with the South.
3. Approve a consultation to end the current street trading arrangements and propose a policy whereby the district just has selected prohibited streets where no street trading can take place at all.
4. The committee may wish the consultation to include both points 2 and 3.

### **Recommendation/s:**

That a consultation to end the current street trading arrangements and propose a policy whereby the district just has selected prohibited streets where no street trading can take place at all be approved.

## Corporate Impact Assessment

### **Governance:**

Licensing is a Council function exercised by Licensing Committee and Licensing Sub-Committees.

### **ESC policies and strategies that directly apply to the proposal:**

Licensing Street Trading Policy

### **Environmental:**

No impact

### **Equalities and Diversity:**

No impact

### **Financial:**

Income from street trading licences and consents has continued to fall over recent years. If the issue of licences and consents were to cease this would have little impact on Licensing income.

### **Human Resources:**

No impact
<b>ICT:</b> No impact
<b>Legal:</b> The Council has adopted a Street Trading Policy in accordance with Paragraph 2 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 to control street trading. Any changes to the Policy would need to go through a statutory consultation process and would then need to be approved by the Licensing Committee.
<b>Risk:</b> Not having a street trading policy in the South of the district (the former Suffolk Coastal District Council) has not caused any significant issues. Only recently has there been a complaint about a particular vendor that has not been resolved. If the current street trading arrangements ceased in the North of the district it is anticipated that the risk of a free for all would be minimal, particularly if a 'prohibited streets' policy was introduced.

<b>External Consultees:</b>	<p>The Council is required by statute to consult:</p> <ol style="list-style-type: none"> <li>1. Suffolk County Council</li> <li>2. Suffolk Constabulary</li> </ol> <p>And place a public notice in a local newspaper circulating in their area.</p> <p>The Licensing Team would also wish to consult:</p> <ol style="list-style-type: none"> <li>1. All Town Councils within the District</li> <li>2. All District Councillors</li> <li>3. The general public via our website.</li> </ol>
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## Strategic Plan Priorities

Select the priorities of the <a href="#">Strategic Plan</a> which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
<b>T01</b>	<b>Growing our Economy</b>		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>T02</b>	<b>Enabling our Communities</b>		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input checked="" type="checkbox"/>	<input type="checkbox"/>

P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
<b>T03</b>	<b>Maintaining Financial Sustainability</b>		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
<b>T04</b>	<b>Delivering Digital Transformation</b>		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T05</b>	<b>Caring for our Environment</b>		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
<b>XXX</b>	<b>Governance</b>		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>
<b>How does this proposal support the priorities selected?</b>			
Licensing plays an important role in the themes in the Council's Strategic Plan of growing our economy and enabling our communities. The Street Trading Policy is an important part of regulating trading in our community.			

## Background and Justification for Recommendation

<b>1</b>	<b>Background facts</b>
1.1	There is currently a Street Trading Policy in the North of the East Suffolk district but not one in the South. This is a legacy of the East Suffolk Council area, prior to the creation of East Suffolk Council on 1 April 2019, being split between Waveney District Council in the North and Suffolk Coastal District Council in the South. The former Suffolk Coastal District Council did not adopt the street trading legislation.
1.2	The Council has adopted a Street Trading Policy ("the Policy") in accordance with Paragraph 2 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") to control street trading.
1.3	All Streets in the former Waveney District that are not listed in the Policy as "Prohibited Streets" or "Licence Streets" are designated as "Consent Streets". For the purposes of this designation, "Streets" includes any road footway, promenade, pavement, public car parks and all other areas adjacent to the said streets for a distance of twenty metres to which the public have access. This means that, under the terms of the 1982 Act, street trading is prohibited without a Licence or Consent issued by the Council.

	The Street Trading Policy is attached as <b>Appendix A.</b>
1.4	<p>The lack of a street trading policy or any regulation in the South of the district (including prior to the formation of East Suffolk Council) has not caused any significant issues. There have been very few complaints about traders over many years and with one exception all have been resolved satisfactorily.</p> <p>Street vendors are not permitted to cause an obstruction on the highway and this is enforced by Suffolk County Council</p>
1.5	<p>Street Trading in the North has been administered under the terms of the current Policy.</p> <p>There are currently only 2 street trading licences and 12 consents in place. 6 of the 12 consents are for ice cream vans which are permitted to use all consent streets and are not restricted to one particular street.</p> <p><b><u>Licences</u></b>  WSTL0006 – Seadish – Fish stall – New Market, Beccles  WSTL0008 – Sizzlers – Hot dogs etc stall – London Road North (opposite Barclays Bank), Lowestoft</p> <p><b><u>Consents</u></b>  WSTC0002 – Farmhouse Kitchen – Hot and cold food and drink stall – Hadenham Road, Lowestoft Industrial Estate, Lowestoft  WSTC0006 – Parravani’s – ice cream van – all consent streets within district  WSTC0007 – Parravani’s – ice cream van – all consent streets within district  WSTC0009 – Lamarti’s (1) – ice cream van – all consent streets within district  WSTC0025 – Lamarti’s (2) – ice cream van – all consent streets within district  WSTC0027 – Jim’s South Norfolk Ices – ice cream van – all consent streets within Lowestoft, Beccles, Bungay &amp; Halesworth  WSTC0019 – Pitstop – Hot food and drink – located in car park at Wickes, Peto Way, Lowestoft  WSTC0011 – Rundles 5 A Day – fruit and veg – does a delivery service where additional items may be brought at the time of delivery and this can be within any consent street in the district. They are also located at Church Green, Lowestoft on a Friday morning for people to collect orders and make purchases.  WSTC0012 – On A Roll – hot and cold food and drink – Hamilton Road, Lowestoft  WSTC0028 – Lamarti’s (3) – ice cream van – located at Links Road Car Park, Lowestoft  WSTC0023 – B J Beevor Ltd – fruit and veg stall (Strawberry) – located at Snab Hill, Kessingland  WSTC0029 – Chloe’s Delights – homemade cakes – housing estates in Lowestoft and the local area</p>
1.6	<p>Income from street trading:</p> <p>2019/20 - £12,054  2020/21 - £7,196  2021/22 - £11,554  2022/23 - £11,985</p>



<b>2 Current position</b>	
2.1	<p>There is no single policy for street trading that covers the whole of East Suffolk.</p> <p>Whilst this has worked well with no significant issues, there has recently been complaints about a particular vendor in the South of the district which has caused concern over the last 3 summers.</p>
2.2	The matter has not been resolved and the vendor continues to trade near to residential properties.
2.3	The Licensing Team has no regulatory powers to remove the trader from the site.
2.4	Income for the year 2023/24 to date is £2,085.00
2.5	<p>Current licence and consent annual fees:  Licence/consent application £425.00  Daily rate for licence £28.00</p> <p>If the trader wishes to use Council owned land, they will have to seek permission from the Asset Management Team and a land licence annual fee would be charged. There is no table of fees for such licences and any application would have to be assessed. There has not been an application for a land licence for street trading for some years.</p>
2.6	<p>The Council issues Street Trading Licences for single 'community' events. These may include a Christmas lights switch on, a carnival, or a street fayre.</p> <p>These types of events are very often organised by the Town and Parish Councils and are usually in town centres or high footfall areas where there are prohibited streets. This part of the street trading regime would need to continue as a licence would be required to trade on any prohibited street.</p>
2.7	There is currently no charge for a single event Street Trading Licence.

<b>3 How to address current situation</b>	
3.1	The Licensing Committee is asked to approve a consultation regarding a future policy for street trading in the whole district of East Suffolk.
3.2	One option for the consultation is to leave the existing street trading arrangements as they are, meaning that the current differences between the North and the South of the district remain.
3.3	<p>A further option is to bring the South of the district in line with the North – have a policy which states prohibited, licence and consent streets.</p> <p>Or bring the North of the district in line with the South – no policy and allow street trading to be unregulated by the Licensing Authority.</p>
3.4	A third option is to have a policy whereby the district just has prohibited streets where no street trading can take place at all. This would mean that prohibited streets can be proposed by best placed consultees such as Town and Parish Councils and, if approved, there would be no street trading permitted on these

	<p>streets. The remainder of the streets in the district would not be subject to regulation although the permission of the land-owner and/or Highways England will need to be obtained. In addition any business operating must operate in accordance with all relevant legislation for the protection of the consumer and the environment.</p> <p>The single event street trading regime would need to continue for which there is no charge. Applications have to be processed and enforcement action would need to be considered for any breach of licence conditions.</p> <p>The Committee may wish to consider whether a charge should be made for these applications.</p>
--	---

4 Reason/s for recommendation	
4.1	The recommendation for a policy containing prohibited streets will allow street trading in certain streets without any licensing fees or restrictions.
4.2	'Prohibited' streets can be proposed and if approved, will restrict any trading from taking place in those streets.
4.3	Traders on any Council owned land would still need consent from the Council as landowner. The Asset Management Team have set charges for land use licences.
4.4	The income from street trading is minimal and given the Officer time that would be saved in not having to administer the scheme if removed, it is submitted that its removal will not have a significant impact on the Council.
4.5	<p>There have been very few complaints about street trading in the South of the district where no street trading policy has existed. The only current on-going complaint could be addressed by making the street in question a prohibited street.</p> <p>This could, of course, encourage the trader to move to a different street so the Town Council would have to consider which streets it would wish to make prohibited streets.</p> <p>There are very few street traders in the North of the district and no complaints have been received about current locations.</p>

## Appendices

Appendices:	
<b>Appendix A</b>	Current Street Trading Policy

Background reference papers:	
	None

## STREET TRADING INFORMATION FOR EAST SUFFOLK COUNCIL

These guidelines have been produced to help people who want to trade in a street (Street Trading). Street Trading is controlled only in the geographical area formerly known as Waveney and not the rest of the East Suffolk district. Any reference to the 'Council' means East Suffolk Council.

These guidelines are not intended to cover every aspect. If after reading them you are still not clear about something, either contact the Council's Licensing Team (the address and telephone number is set out at the end of this note) or seek your own further advice.

### The General Position

The law defines "Street Trading" as "the selling or exposing or offering for sale of any article (including a living thing) in a street".

There are certain exceptions from this definition but generally the definition is wide and covers most forms of trading.

The Council has designated some Streets within the area formerly known as Waveney District Council area as **Prohibited** Streets and some as **Licensed** Streets. The remaining Streets are **Consent** Streets. Please see the following explanation and refer to the lists of Prohibited and Licensed Streets attached.

A "street" is also given a wide definition. For the purposes of this designation, "Streets" includes any road, footway, promenade, pavement, public car parks and all other areas adjacent to the said streets for a distance of 20 metres to which the public have access without paying.

A Licence/Consent cannot be issued to anyone under the age of 17.

A licence or consent will last at the most for one year. It is your responsibility to ensure you make a renewal application in good time before the expiry of your Licence/Consent, if you wish to continue trading.

When issuing a Licence/Consent the Council may apply such conditions as it considers reasonably necessary. Conditions will obviously vary according to the circumstances of each case.

The Council will **not** grant a Licence/Consent if: -

- It is not satisfied about arrangements for clearing away and disposing of any refuse created by the trading taking place.
- The trading is likely to disturb or annoy people living in the immediate area.

An application will take a **minimum** of 28 days, as we must consult with Police, Environmental Services, Planning, all District Councillors, Town Councils and Highways at Suffolk County Council. We will not begin to consider an application unless **all** the relevant documentation is sent in with the application form.

**If you are trading in food** (including ice cream) please contact our Environmental Health section for further information regarding details of food safety regulations and the registration of a food business (this is a legal requirement). The vehicle/stall will be subject to an inspection to determine its suitability and to check compliance with food and safety regulations.

For trading in any of the **market towns (Beccles, Bungay, Halesworth, Lowestoft and Southwold)** you must contact the appropriate Town Council before applying to us.

Beccles	Tel: 01502 712109	Email: <a href="mailto:admin@becclestowncouncil.gov.uk">admin@becclestowncouncil.gov.uk</a>
Bungay	Tel: 01986 894236	Email: <a href="mailto:clerk@bungaytowncouncil.gov.uk">clerk@bungaytowncouncil.gov.uk</a>
Halesworth	Tel: 01986 874517	Email: <a href="mailto:clerk@halesworthtowncouncil.org.uk">clerk@halesworthtowncouncil.org.uk</a>
Lowestoft	Tel: 033 0053 6019	Email: <a href="mailto:admin@lowestofttowncouncil.gov.uk">admin@lowestofttowncouncil.gov.uk</a>
Southwold	Tel: 01502 722576	Email: <a href="mailto:townclerk@southwoldtowncouncil.com">townclerk@southwoldtowncouncil.com</a>

We will not accept an application for trading in the market towns unless it is accompanied by the approval of the appropriate Town Council. Once you have the approval of the Town Council you may make your application to us.

**Applications must include:**

- the name, address and date of birth of the applicant. An applicant must be an individual of at least 17 years of age
- details of the street(s) and location of the pitch or the areas the applicant wishes to trade
- the days and times they wish to trade
- descriptions of articles or things intended to be traded and any item that will be used in connection with the trading
- storage arrangements for the vehicle/trailer
- the fee (there is also a fee due on annual renewal)
- a copy of your public liability insurance for a minimum of £5,000,000
- a photograph of the vehicle/stall and a plan map showing your chosen location.

In addition, if you are planning to use a motorised catering unit you will also need to provide

- Vehicle registration certificate
- Proof of MOT
- Proof of vehicle insurance – specifically business use
- Driving licence for all prospective drivers

Applications will not be considered without this evidence.

**Application procedure**

Once a full and complete application has been received a consultation period will commence when your application details are circulated to:

- Environmental Services
- Planning
- All District Councillors
- The Police. For self-contained vehicles (e.g. ice cream vans) they may require you to produce original documentation for the vehicle and any drivers
- The Highways Authority
- Town Council (if required)

A Consent or Licence may not be granted when adverse comments are received from the consultees, or where there is a possible risk to road safety or possibility of a nuisance being created.

A council will grant an application unless there are grounds for refusal.

### **PROHIBITED, LICENSED AND CONSENT STREETS**

If the Council has designated a street as a **prohibited street** it means that **no Street Trading at all can take place**, this includes all other adjacent areas to a distance of 20 metres. In these streets there is no point in applying for a Licence because the Council will not issue one. See attached list.

The Council has designated the remainder of streets within the area formerly known as Waveney District Council area as either **Licensed or Consent Streets**. The licensed streets are identified on the attached list. All remaining streets, if they are not prohibited or licensed are consent streets.

A Street Trading Licence or consent when granted will be subject to various conditions, which will be attached to the Licence.

### **LIST OF PROHIBITED & LICENSED STREETS**

#### **PROHIBITED STREETS**

For the purposes of paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, the following streets within the former Waveney District Council administrative area be designated as Prohibited Streets for the purposes of Street Trading, the effect of such designation being to prohibit any street trading in any of the streets so designated:

#### **General**

All of the A12 Trunk Road within the area formerly known as Waveney District including service roads and lay-bys excluding the lay-by at Frostenden

All of the A146 within the area formerly known as Waveney District, including service roads and lay-bys

All of the A1117 within the area formerly known as Waveney District, including service roads and lay-bys

All parts of car parks owned and/or operated by the former Waveney District Council, whilst being operated as public car parks except for the portion of Royal Green car park within 20 metres of the East Point Pavilion project area.

All of the B1375 within the area formerly known as Waveney District, including service roads and lay-bys

#### **Lowestoft**

Swimming Pool Road (entire length, both sides)

Whapload Road (entire length, both sides)

Leisure Way (from A12 junction to entrance to Pleasurewood Hills (both sides)

London Road South (entire length, both sides)

Marine Parade (from first junction with Royal Green Car Park to junction with Victoria Terrace)

Kensington Road (entire length, both sides)

Kirkley Cliff Road (entire length, both sides)

Claremont Road (entire length, both sides)

Waterloo Road (entire length, both sides)

London Road Pakefield (entire length, both sides)

The Boulevard Oulton Broad (entire length)

Victoria Terrace (entire length, both sides)  
Wellington Esplanade (entire length, both sides)

### **Beccles**

Blyburgate (entire length, both sides)  
Newgate (entire length, both sides)  
The Walk (entire length, both sides)  
Ballygate (entire length, both sides)  
St Mary's Road (entire length, both sides)  
Peddars Lane (entire length, both sides)  
Fen Lane (entire length, both sides)

### **Southwold**

Ferry Road (entire length, both sides)  
Southwold Harbour (from the junction with Ferry Road to the junction with Blackshore Road, both sides)  
High Street (entire length, both sides)  
North Parade (entire length, both sides)  
East Street (entire length, both sides)  
Parts of the cliff top path from junction with North Parade to junction with Gun Hill (including promenade)  
Gun Hill  
Godyll Road and Blackshore Road (entire length, both sides)

### **Halesworth**

Market Place (entire length, both sides)  
London Road (entire length, both sides)  
Saxons Way (entire length, both sides)  
Norwich Road (entire length, both sides)

### **LICENSED STREETS**

For the purposes of paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, the following streets within the area formerly known as Waveney District Council administrative area be designated as Licensed Streets for the purpose of Street Trading, the effect of such designation being to permit street trading in any of the streets so designated upon the issue of a Street Trading Licence by the Council and any street trading thereafter permitted being subject to the terms and conditions of the issued Licence:

Lowestoft High Street (both sides, from the junction with Camden Street to its southernmost extent)  
London Road North, Lowestoft (from Milton Road East to Station Square). 2 Stalls in total

The Thoroughfare, Halesworth (entire length, both sides)  
Bridge Street, Halesworth (entire length, both sides)

Newmarket Beccles (entire length, both sides)  
Old Market Beccles (entire length, both sides)  
Exchange Square Beccles (entire length, both sides)  
Sheepgate Beccles (entire length, both sides)  
The Quay Beccles

All applications for licences for London Road North will go to a Licensing Sub-Committee for decision. All **licences** issued will be subject to a daily fee in addition to the annual fee.

### **CONSENT STREETS**

All remaining streets within the area formerly known as Waveney District administrative area which have not been expressly designated as Prohibited Streets or Licensed Streets be designated as Consent Streets for the purpose of Street Trading, the effect of such designation being to permit street trading in any of the streets so designated upon the issue of a Street Trading Consent by the Council and any street trading thereafter permitted being subject to the terms and conditions of the issued Consent.

### **UNDESIGNATED STREETS**

Lowestoft Sea Front between East Point Pavilion and Claremont Pier, Royal Terrace, Royal Plain, Parade Road North, Marine Parade between Parade Road North and the first junction of the Royal Green Car Park and the portion of Royal Green Car Park within 20 metres of the East Point Pavilion Project Area, are undesignated from the Street Trading Policy. A Street Trading Licence is not required to trade on an undesignated street. The consent of the landowner is still required. All other applicable statutory and regulatory requirements must also be complied with.

### **SCALE OF CHARGES FOR STREET TRADING WITHIN THE AREA FORMERLY KNOWN AS WAVENEY DISTRICT COUNCIL AREA**

**Please note the fee applies to each stall/vehicle being operated and is subject to review.**

### **CONSENT STREETS**

The application and annual fee payable in respect of trading in streets which are designated as Consent Streets is currently £425.

### **LICENSED STREETS**

The application and annual fee payable in respect of trading in Streets which are designated as Licensed Streets is currently £425.

The following daily charges also apply: -

The current charge is £28 per day

This will be collected by way of invoice in advance on a monthly basis for all days on the licence.

This is applicable to all Licensed Streets, which are listed on the List of Prohibited and Licensed Streets for every day on your licence **whether you trade or not**. The only exceptions are for holidays advised to us in advance, or periods of sickness lasting more than one week advised to us as soon as is practicable.

**Once a licence/consent is issued it is your responsibility to ensure you make a renewal application in good time before the expiry date if you wish to continue trading.**

If you have any queries please do not hesitate to contact the Licensing Team on 01394 444802 or at [licensing@eastsoffolk.gov.uk](mailto:licensing@eastsoffolk.gov.uk) or write to us at:

Licensing Team, East Suffolk Council  
Riverside, 4 Canning Road  
LOWESTOFT, NR33 0EQ



## LICENSING COMMITTEE

Monday, 16 October 2023

<b>Subject</b>	Scheduled review of the Council's Statement of Licensing Policy
<b>Cabinet Member</b>	Councillor Jan Candy Cabinet Member with responsibility for Community Health
<b>Supporting Officer</b>	Martin Clarke Licensing Manager and Housing Lead Lawyer <a href="mailto:martin.clarke@eastsoffolk.gov.uk">martin.clarke@eastsoffolk.gov.uk</a>
<b>Head of Service</b>	Chris Bing Head of Legal and Democratic Service <a href="mailto:chris.bing@eastsoffolk.gov.uk">chris.bing@eastsoffolk.gov.uk</a>
<b>Director</b>	Kate Blakemore Strategic Director <a href="mailto:kate.blakemore@eastsoffolk.gov.uk">kate.blakemore@eastsoffolk.gov.uk</a>

Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.	Not applicable.
<b>Wards Affected:</b>	All Wards



## Purpose and high-level overview

### **Purpose of Report:**

To report to the Licensing Committee the outcome of the recent consultation on the draft revised edition of the Statement of Licensing Policy to seek approval of a final draft to report to full Council in November 2023.

### **Options:**

1. To approve the draft sixth edition of the Statement of Licensing Policy including the suggestion by Public Health.
2. To approve the draft sixth edition of the Statement of Licensing Policy to not include the suggestion by Public Health.

### **Recommendation/s:**

That the sixth edition of the Statement of Licensing Policy, including the wording proposed by Public Health during the consultation, be recommended to Full Council for approval at its meeting on 22 November 2023.

## Corporate Impact Assessment

### **Governance:**

Licensing is a Council function exercised by Licensing Committee and Licensing Sub-Committees.

### **ESC policies and strategies that directly apply to the proposal:**

Statement of Licensing Policy

### **Environmental:**

No impact

### **Equalities and Diversity:**

No impact

### **Financial:**

No impact

### **Human Resources:**

No impact

### **ICT:**

No impact

### **Legal:**

No impact

**Risk:**

No impact

**External Consultees:**

Responsible Authorities (in terms of Licensing Act 2003)  
 Town and Parish Councils  
 Premises Licence holders  
 Club Premises Certificate holders  
 Members of the public via the Council's website

## Strategic Plan Priorities

Select the priorities of the <a href="#">Strategic Plan</a> which are supported by this proposal: (Select only one primary and as many secondary as appropriate)		Primary priority	Secondary priorities
<b>T01</b>	<b>Growing our Economy</b>		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>T02</b>	<b>Enabling our Communities</b>		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input checked="" type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
<b>T03</b>	<b>Maintaining Financial Sustainability</b>		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
<b>T04</b>	<b>Delivering Digital Transformation</b>		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T05</b>	<b>Caring for our Environment</b>		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
<b>XXX</b>	<b>Governance</b>		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>

### How does this proposal support the priorities selected?

Licensing plays an important role in the themes in the Council's Strategic Plan of growing our economy and enabling our communities. The Statement of Licensing Policy gives clear guidance on licensing matters to applicants, licensees and the public; promoting economic growth for local businesses whilst enabling the community to make constructive representations should the need arise.

## Background and Justification for Recommendation

1 Background facts	
1.1	The Licensing Act 2003 requires each local authority to publish a Statement of Licensing Policy and review it every five years, or sooner if required. This Statement must establish the principles to be applied when determining applications under the Act, such as applications for the sale/supply of alcohol, regulated entertainment and the provision of late night refreshment.
1.2	The Act specifies that in drafting and implementing the Policy, it must promote the four licensing objectives. These are: <ul style="list-style-type: none"><li>• The prevention of crime and disorder.</li><li>• Public safety.</li><li>• The prevention of public nuisance.</li><li>• The protection of children from harm.</li></ul>
1.3	Home Office Guidance issued under section 182 of the Licensing Act 2003 (the "Guidance") provides local authorities with direction on the discharge of their functions under the Act. Licensing Authorities must have regard to the Act and the Guidance when preparing its Policy.
1.4	The Council first published its Statement of Licensing Policy in January 2005. This sets out the decision-making principles when licensing premises for alcohol, regulated entertainment and late night refreshment.  Until 2011 the prescribed period for reviewing the policy was every 3 years. In 2011 this period changed to every 5 years. The next policy due to be published in January 2024, will be the Council's 6 <sup>th</sup> edition.
1.5	On 17 July 2023, the Licensing Committee resolved to carry out a consultation regarding the proposed draft 6 <sup>th</sup> edition of the Statement of Licensing Policy – <b>Appendix A.</b>
1.6	The consultation ran between 25 July and 28 August 2023. Responsible Authorities, Town and Parish Council's, Personal, Premises, and Club

	<p>Certificate licence holders and members of the public via the Council’s website, were consulted. 3 consultation responses were received.</p> <p>One response proposed some additional wording to be included in the Policy.</p> <p>One response pointed out an error with the information included in a particular sentence.</p> <p>One response suggested that ‘it would be helpful to view a document that showed how it has been amended from its predecessor’.</p>
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## 2 Current position

2.1	East Suffolk carried out its last consultation and review in 2018. The current Statement of Licensing Policy was published in January 2019 and covers the period January 2019 to January 2024.
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## 3 How to address current situation

3.1	Copies of the three consultation responses are at <b>Appendix B</b> .
3.2	Include the wording proposed by Public Health.
3.3	<p>The error pointed out by the Environmental Health must be addressed. The correct wording is:</p> <p>18.4 Where the Suffolk Constabulary or Environmental Health have issued an objection notice, to a standard TEN, the Licensing Authority will normally consider this at a hearing (unless the objection notice is withdrawn before the hearing date). Hearings will be held in accordance with the procedure outlined in section 9 above.</p> <p>The system of permitted temporary activities gives the police and Environmental Health Authorities the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.</p>
3.4	There were no major changes to the policy, apart from the addition of section 24 regarding the ancillary delivery of alcohol and/or late night refreshment, which was highlighted. However, the comments from Lowestoft Town Council have been noted by the Licensing Team.

## 4 Reason/s for recommendation

4.1	The Licensing Act 2003 required all Local Authorities to adopt a Statement of Licensing Policy and to update this policy following a consultation procedure.
4.2	The current Statement of Licensing Policy is due for a review and the new document must be published in January 2024.

## Appendices

Appendices:	
<b>Appendix A</b>	Draft Statement of Licensing Policy
<b>Appendix B</b>	Three consultation responses

Background reference papers:	
None.	



# Licensing Act 2003

## Statement of Licensing Policy

DRAFT

January 2024  
(6th Edition)

**EAST SUFFOLK COUNCIL**  
**LICENSING ACT 2003: STATEMENT OF LICENSING POLICY**

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## EAST SUFFOLK COUNCIL

### Sixth version Licensing Act 2003 Statement of Licensing Policy

#### Introduction:

The Licensing Act 2003 became fully implemented on 24 November 2005, and brought about the single biggest change to the licensing arrangements for many types of leisure premises in 40 years. The Act integrated six separate licensing regimes covering the sale and supply of alcohol, the provision of regulated entertainment, the provision of late night hot food or drink (between the hours of 11pm and 5am), night cafés, theatres and cinemas.

This document is the sixth version of the local 'Statement of Licensing Policy' for East Suffolk Council and revisions will endeavour to incorporate the Authority's practical experience of the legislation to date, the revised Guidance document published under section 182 of the Licensing Act 2003 by the Home Office, and feedback from all relevant stakeholders.

The Licensing Authority recognises that it is not always straightforward to reach decisions that satisfy all parties, but the Authority shall always endeavour to carefully balance the interests of owners, premises licence holders, employees, customers and neighbours of licensable premises, and will remain focused on the promotion of the four licensing objectives, which are:

1. The prevention of crime and disorder
2. Public safety
3. The prevention of public nuisance
4. The protection of children from harm

#### East Suffolk





East Suffolk covers an area of 125,979 hectares and is located on the east coast (to the north and east of Ipswich, the county town of Suffolk), covering the entire Suffolk coastline. It is the most easterly district in Britain and one of the largest in population.

A large part of the district is rural in character and bisected by a series of small river valleys which broaden into estuaries as they near the coast. The district's quality of life is amongst the highest in the country and its environment is a key factor with a large part of the district designated as an Area of Outstanding Natural Beauty, along with numerous areas of natural conservation importance including Minsmere and historical importance such as Sutton Hoo, the castles at Orford and Framlingham and our rich and varied coastline and the historic towns of Beccles, Bungay, Halesworth and Southwold.

While tourism and agriculture are important industries in the district, it is also home to many internationally significant names with Britain's busiest Port at Felixstowe, BT's research and innovation centre at Martlesham, and Britten's performing arts centre at Snape Maltings. Recent investment in the area has seen the 'energy coast' developed with both expanding off-shore wind power at Lowestoft and nuclear power at Sizewell.

### **THE ROLE OF THE LICENSING AUTHORITY IN THE DECISION MAKING PROCESS:**

It is important for any person reading this Statement of Licensing Policy to note that the Licensing Authority's discretion and decision making role, referred to throughout this Statement of Licensing Policy, is only engaged following a relevant representation being lodged in respect of an application, and where that representation is not withdrawn. The application will then ordinarily be heard by a sub-committee of the Council's Licensing Committee. However, it must be noted that, in contrast, the process and determination in respect of minor variations and community premises mandatory conditions dis-applications are exceptions to these usual arrangements, as referred to later in this document.

The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so the Licensing Authority will be mindful of the legislative framework and any relevant government guidance.

In cases where a premises licence application or club premises certificate has been lawfully made, and no responsible authority or person other than a responsible authority (other persons) has made a representation, the Licensing Authority must grant the application on the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act. This should be undertaken as an administrative process by the Licensing Authority's officers who will translate the proposals contained within the operating schedule to promote the licensing objectives into clear and understandable conditions. As above, there are different arrangements in place for some minor processes under the Act.

The Police Reform and Social Responsibility Act 2011 created a further role for the Licensing Authority as a Responsible Authority thereby allowing it to make representations and/or seek a review of a premises licence or club premises certificate.

It is the intention of the Licensing Authority to work closely with licensees, their representatives, responsible authorities, other persons, and partner authorities in order to promote the licensing objectives and minimise the burden on all involved to ensure that as far as possible the licensing arrangements work satisfactorily and successfully.

## STATEMENT OF LICENSING POLICY (6<sup>th</sup> edition)

This policy is effective from 31 January 2024 for five years (unless revised by voluntary arrangement).

### 1. Licensing Objectives

- 1.1 This policy must be read in conjunction with the Licensing Act 2003 (the Act), secondary legislation and the Guidance issued under s.182 of the Licensing Act 2003 (the Guidance).
- 1.2 Where revisions are made to the legislation or Guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regards, and give appropriate weight to, the relevant changes, Guidance and its own Statement of Licensing Policy.
- 1.3 The Licensing Authority recognises that balancing the interests of owners, employees, customers and neighbours of licensable premises will not always be straightforward, but it will always be guided by the four licensing objectives of the Act, which are :
- a) the prevention of crime and disorder;
  - b) the prevention of public nuisance;
  - c) public safety; and
  - d) the protection of children from harm

The Licensing Authority's general approach to addressing these four licensing objectives is set out in section 14 of this Statement of Licensing Policy.

- 1.4 In exercising its licensing functions, once its discretion is engaged, the Licensing Authority will primarily focus on the direct impact of the licensable activities taking place at the licensed premises on members of the public living, working or engaged in normal activity who may be affected by the activities.
- 1.5 The aims of this Statement of Licensing Policy include:
- a) Helping to encourage and support a strong and inclusive society that balances the rights of individuals and their communities; and
  - b) Integrating the Licensing Authority's aims and objectives with other initiatives and strategies that will help to:
    - reduce crime and disorder, and the fear of crime;
    - ensure the safety of the public engaging in licensable activities
    - encourage tourism and cultural diversity;
    - reduce alcohol misuse;
    - encourage the self sufficiency of local communities; and
    - reduce the burden of unnecessary regulation on business.
- 1.6 This Statement of Licensing Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have such an application considered on its individual merits, where the Licensing Authority's discretion has been engaged.

It does not seek to override the right of any person to make representations on or about an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

- 1.7 The licensing process can only seek to control those measures within the control of the licensee or certificate holder (and their staff/agents), and in the vicinity of the premises involved in licensable activities, for example on the pavement, in a beer garden or smoking shelter. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from such premises and beyond the direct control of the licence holder, nor is it the cure-all for community problems.

## 2. **Purpose of the Statement of Licensing Policy**

2.1 The purpose of this Statement of Licensing Policy is to:

- inform the elected Members serving on the Licensing Committee of the parameters within which licensing decisions can be made;
- inform applicants, residents and businesses of the parameters within which the Licensing Authority will make licensing decisions;
- inform residents and businesses about how the Licensing Authority will make licensing decisions; and
- provide a basis for decisions made by the Licensing Authority if these decisions are challenged in a court of law.

2.2 This policy relates to the following licensable activities as defined by the Act:

- Retail sale of alcohol;
- Supply of alcohol by or on behalf of a club, or to the order of a member of the club;
- Provision of regulated entertainment, which generally includes music, film, plays, indoor sporting events, boxing or wrestling, dance and similar activities. It should be noted that some entertainment activities may be subject to full or limited exemption in particular circumstances; and
- Provision of late night refreshment.

2.3 It should be noted that some previous licensable activities, and locations, are now deregulated (whether fully or partially) via amendments made to the 2003 Act. Further information on these is available from [www.gov.uk](http://www.gov.uk). Whether activities/locations may be entitled to benefit from an exemption or de-regulation would be assessed on a case-by-case basis.

2.4 In some cases additional licences for entertainment may be required under separate legislation, for example sexual entertainment venues may also require a licence under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, or the venue may also require Performing Rights Society (PRS) or other permissions.

## 3. **Other legislation, strategies and guidance**

3.1 When carrying out its functions the Local Authority has duties, responsibilities and considerations under other legislation and strategies, for example:

- (a) Crime and Disorder Act 1998 (in particular obligations under section 17 relating to the prevention of crime and disorder);

- (b) The European Convention on Human Rights, given effect by the Human Rights Act 1998;
- (c) Anti-Social Behaviour, Crime and Policing Act 2014 (in particular the powers available under section 80 relating to the closure of premises on the grounds of crime, disorder and nuisance);
- (d) Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000);
- (e) Environmental Protection Act 1990 (as amended); (including the duty of the Local Authority to investigate complaints of statutory nuisance).
- (f) Health & Safety at Work Act etc. Act 1974;
- (g) Noise Act 1996 (as amended);
- (h) Health Act 2006;
- (i) Clean Neighbourhoods and Environment Act 2005 (including powers for the Local Authority to issued fixed penalty notices to licensed premises emitting noise that exceeds the permitted level between 11pm and 7am);
- (j) Policing and Crime Act 2009;
- (k) The Council's procedure for dealing with petitions and its obligations under the Local Democracy, Economic Development and Construction Act 2009;
- (l) The Equality Act 2010;
- (m) European Union Services Directive;
- (n) Police Reform and Social Responsibility Act 2011;
- (o) The Live Music Act 2012;
- (p) The Policing and Crime Act 2017
- (q) The Immigration Act 2016

3.2 The Premises operators/responsible persons within a business or activity are normally responsible for compliance with any other separate statutory requirements which may apply, not dealt with directly by the Local Authority, for example compliance with the Regulatory Reform (Fire Safety) Order 2005.

3.3 The Licensing Authority will as far as possible seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate or proportionate to impose the same or similar duties on the premises licence holder or club. Once the discretion of the Licensing Authority is engaged, it is only where additional and supplementary measures are appropriate to promote the licensing objectives that necessary and proportionate conditions will be attached to a licence.

3.4 Other Local Authority and Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them.

3.5 For example, the Licensing Authority will liaise closely with the local Safer Neighbourhood Teams (SNT) and/or Crime and Disorder Reduction Partnership (CDRP), the Police and Crime Commissioner and the East Suffolk Safety Advisory Group (SAG) to ensure that the Local Authority can develop effective strategies that take full account of local crime and disorder issues.

3.6 The Local Authority may, in appropriate circumstances, consider seeking from the Licensing Authority premises licences in its own name for its own public spaces within the community. This

may assist with the promotion of broader cultural activities and entertainments which add value to our communities and local economy.

#### 4. Relationship with Planning Process

- 4.1 Applications for premises licences for permanent commercial premises will normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority.
- 4.2 It is strongly recommended that prospective licence applicants contact the Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It clearly makes operational sense to ensure that planning and licensing are compatible.
- 4.3 The Licensing Authority wishes to emphasise that the granting by the Licensing Committee of any variation of a licence which involves a material alteration or change of use to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 4.4 The Local Authority will aim to properly separate planning, building control and licensing regimes in order to avoid duplication and inefficiency. The Licensing and Planning regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. However, liaison will be undertaken between functions to provide a joined-up approach for service users, wherever possible.
- 4.5 The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, and will not normally impose licensing conditions where the same or similar conditions have been imposed on a planning consent.
- 4.6 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.
- 4.7 Where as a condition of planning permission restricted hours have been set for the use of premises for commercial purposes that is different to the licensing hours, the licensee must observe the more restricted hours in order to avoid any breach of their planning permission or licensing obligations - for which they may be liable to prosecution under planning or licensing law.
- 4.8 It clearly makes operational sense to ensure that planning and licensing are compatible. In the majority of cases, it will be wise to obtain or vary any necessary planning consent before making a licensing application. This is because the wider range of considerations open to the planning authority means that if the planning and licensing decisions have to differ, it is likely that the planning decision will be more restrictive. However, there is no legal requirement for a planning application to precede a licence application, and compatibility with the requirements of planning is not in itself a valid reason to adopt a restrictive approach to a licence application.
- 4.9 It may sometimes be appropriate for the licensing authority to have regard to a planning decision concerning the same premises, particularly if it has been made recently and the factors taken into account by the planning authority overlap significantly with the licensing objectives. However, *the licensing authority is not bound by decisions made by the planning authority and vice versa.*

## 5. Cumulative Impact

5.1 The Licensing Authority recognises that the cumulative effect of licensed premises may have negative consequences which could include:

- an increase in crime against both property and persons;
- an increase in noise causing disturbance to residents;
- traffic congestion and/or parking difficulties; and
- an increase in littering and fouling,

and that enforcement action taken to ensure that conditions are complied with may not always resolve any problems experienced in the vicinity of licensed premises.

5.2 Licensing is only one means of addressing the problems identified above and cannot in isolation provide a solution to many of the problems that may be experienced. Other mechanisms to address problems could include:

- Planning controls
- Powers of Local Authorities or Police to designate parts of the Local Authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas
- Police powers to close down premises or temporary events for up to 48 hours on the grounds of disorder, the likelihood of disorder or excessive noise;
- Prosecution of personal licence holders who sell alcohol to people who are drunk or underage
- Local Authority powers under the Anti-Social Behaviour Crime and Policing Act 2014
- Powers available to responsible authorities under the provisions of the Policing and Crime Act 2009 or Violent Crime Reduction Act 2006.
- Local Authority powers under the Environmental Protection Act 1990 to serve noise abatement notices.

5.3 Where the Licensing Authority is satisfied that there is evidence of a disproportionate detrimental effect on neighbouring businesses and residents and the operation of a number of premises in a defined area has the effect of undermining the licensing objectives, a special policy may be developed. Such a policy would ordinarily address the impact of a concentration of licensed premises selling alcohol for consumption on the premises, as it would not normally be justifiable to adopt such a policy on the basis of a concentration of shops, stores and supermarkets selling alcohol for consumption off the premises.

5.4 When setting such a policy, the Licensing Authority shall have due regard to the Guidance, and will follow the consultation, adoption and review procedures applicable to the process.

5.5 No special policy adopted for a specific area will be absolute, each application shall be considered individually on its own merits.

5.6 The absence of a special policy does not prevent any responsible authority or other persons making representations on a new application for the grant or variation of a licence on the grounds that the premises will give rise to a detrimental cumulative impact on one or more of the licensing objectives in a particular area.

## 6. **Licensing Hours**

- 6.1 The Licensing Authority, through the exercise of its licensing functions once its discretion is engaged, shall not seek to restrict the trading hours of any particular premises unless it is considered appropriate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits.
- 6.2 An Early Morning Restriction Order (EMRO) is a power introduced by the Police Reform and Social Responsibility Act 2011 that allows licensing authorities to restrict sales of alcohol in the whole or a part of their area for any specified period between 3am and 6am if they consider this appropriate for the promotion of the licensing objectives. This applies to premises licences and club premises certificates.
- 6.3 The licensing authority would need to be satisfied that an EMRO is appropriate for the promotion of the licensing objectives in a particular area.
- 6.4 In the absence of any specific reasons linked to the licensing objectives, the Licensing Authority will not seek to restrict licensed retail outlets ability to sell alcohol for consumption off the premises throughout their general trading hours.
- 6.5 The Licensing Authority recognises that providing consumers with greater choice and flexibility is an important consideration and that in some circumstances flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided, which in turn can reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which can lead to crime, disorder and disturbance.
- 6.6 The Licensing Authority also acknowledges that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists.
- 6.7 The Licensing Authority will however, where its discretion is engaged, always carefully balance the considerations in 6.5 and 6.6 above against its duty to promote the licensing objectives and protect the rights of local residents and businesses in the vicinity of licensed premises.
- 6.8 The Licensing Authority will consider each application individually on its merits, once its discretion is engaged, and notes the Government's guidance that there is no general presumption in favour of lengthening licensing hours and that the four licensing objectives should be paramount considerations at all times. Where there are relevant representations against an application and the Licensing Committee believes that granting the licensing hours proposed would undermine the licensing objectives then it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 6.9 Irrespective of the hours of operation granted for a premises under any licence under the Act, the premises operators should ensure that they comply with any limitation on hours imposed under any other relevant legislation in force - for example Planning law, Sunday Trading Act 1994 or Christmas Day (Trading) Act 2004.

## 7. **Relevant Representations**

- 7.1 A relevant representation is one that is made in writing and:
- is about the likely effect of the licence on the promotion of the licensing objectives;

- has been made by a responsible authority, elected member of the Licensing Authority or other persons, within the relevant time period as prescribed by regulation;
- has not been withdrawn; and
- has not been determined by the Licensing Authority as frivolous or vexatious (or repetitious in respect of a review).

7.2 In 'borderline' cases, the Licensing Authority will normally give the benefit of the doubt to the responsible authority or other persons making the representation, and any subsequent hearing would provide an opportunity for the person or body making the representation to amplify and clarify it.

7.3 Electronic representations will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licenses and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009 and are accepted by the licensing authority provided that the representation is received within the prescribed time limits. An electronic representation is not deemed to be received until it is opened which will be within office hours and if the e-mail is sent outside those hours and the consultation period finishes before the office is next open then the representation is late and will be refused.

7.4 The Licensing Authority will determine whether:

- the representation has been made in the prescribed form; and
- any ordinary and reasonable person would consider the issue(s) raised in a representation as frivolous or vexatious (or repetitious in respect of a review).

Any persons aggrieved by a rejection of his representation on these grounds may challenge the Licensing Authority's decision by way of judicial review.

7.5 Local Councillors play an important role in their communities. They can make representations in writing and subsequently at a hearing as:

- a member of the relevant licensing authority, i.e. elected councillors of the licensing authority for the area in which a premises is situated;
- on behalf of a named other person such as a resident or local business if specifically requested to do so; and
- as an individual in their own right.

Their involvement in and/or participation in meetings to discuss matters is subject to The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and the Suffolk Code of Conduct.

7.6 The Licensing Authority seeks to consider each representation on its merits, and taking into consideration the following matters; location of the premises which is the subject of the application, the nature of the surrounding area, and the direct impact of the activities proposed to take place.

7.7 The Licensing Act 2003 provides discretion for the Licensing Authority to facilitate a mediation process between parties. The Licensing Authority will attempt mediation between the relevant parties wherever it may be practicable or appropriate to do so, so as to avoid unnecessary hearings. It may also extend the normal time limits for hearings where it is considered to be in the public interest to do so (for example where all parties are on the point of reaching



agreement or so as to ensure that it is possible for a party to attend the hearing). Mediation potential will be assessed case-by-case as each set of circumstances will be different. Where compromise may be viable to appropriately balance the interests of all stakeholders, and doing so will not prejudice any party's rights under the law, then the Licensing Authority will take all reasonable steps to facilitate such discussions.

7.8 It should be noted that the usual hearing arrangements, following receipt of a relevant representation, do not apply to minor variations. For these processes the power to determine the application has been delegated to the Licensing Officer, and no hearing mechanism is involved. Relevant representations and statutory guidance will, however, be considered as part of this process, and applications shall be assessed individually and on merit by the relevant officer.

## **8. Administration, Exercise and Delegations of Functions**

8.1 The Council's published delegation scheme of functions under the Licensing Act 2003 is contained within the Council's Constitution and is available on the Council's website.

8.2 Where an application has been lawfully made under the Act, and no relevant representations are outstanding, the Licensing Authority will grant the application, in accordance with the requirements of the Act under the authority delegated to an officer. The exceptions to this usual administrative process are applications for review of a premises which must be referred to a hearing when the application is made, minor variations and community premises mandatory conditions disapplication requests, as referred to elsewhere in this document.

8.3 Where an application does not meet the statutory requirements, it will be returned to the applicant with an explanation of the matters that need to be addressed in order to meet the statutory requirements.

8.4 Electronic applications will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009.

## **9. Hearings**

9.1 Where a hearing is required, the relevant representations made will be put before the Licensing Sub-Committee. The representations, including the name and address of the person making them, will normally become part of a public document. If any person is deterred from making a representation due to these requirements, for example if they have a genuine and well-founded fear of intimidation or violence, then they should promptly contact the Licensing Team for advice.

9.2 The hearing will be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005

9.3 Where an application is determined at a hearing, the Licensing Sub-Committee will give appropriate weight to the:

- relevant representations made
- submissions and any evidence presented by all parties
- Guidance issued under section 182 of the Act (as may be amended from time to time)
- Licensing Authority's Statement of Licensing Policy

- Steps necessary to promote the licensing objectives
- The Human Rights Act 1998.

## 10. Conditions

10.1 The 2003 Act (under sections 19-21) makes provision for certain mandatory conditions which are summarised below:

- (a) Where a premises licence authorises the sale or supply of alcohol, no supply may be made at any time when there is:
  - No designated premises supervisor in respect of the licence; or
  - At a time when the designated premises supervisor does not hold a personal licence or it is suspended.
- (b) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring that the admission of children is restricted in accordance with the recommendation of the film classification body, or where varied, the film classification awarded by the Licensing Authority. (Note: The Licensing Authority may either award a classification to an unclassified film or vary the classification of a film upon application in accordance with its policy).

The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes.

- (c) Where a licence includes a condition requiring that one or more individuals are present at the premises to carry out security activities, the licence must include a condition requiring such individuals to be licensed by the Security Industry Authority. This requirement will not normally apply to employees who benefit from any relevant exemption under the Private Security Industry Authority Act 2001 (the 2001 Act) or by virtue of any other legislation (for example the Violent Crime Reduction Act 2006).

(Note: A premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as 'unlicensed premises' – being premises staging plays or exhibiting films, licensed gaming premises such as casinos and bingo halls, and premises where a club certificate is in force and when activities are being carried on under the authority of that certificate).

10.2 There are also mandatory conditions relating to a code of conduct for holders of ON licensed premises, via the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 - arising from the Policing and Crime Act 2009. The Secretary of State has powers to set further mandatory conditions and may use this power from time to time. The following conditions apply to ALL premises licensed for ON sales:

1. *The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this [condition], an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children –*

- (1) *games or other activities which require or encourage, or are designed to require or encourage, individuals to –*
- *drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or*
  - *drink as much alcohol as possible (whether within a time limit or otherwise);*
- (2) *provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);*
- (3) *provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;*
- (4) *provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on –*
- *the outcome of a race, competition or other event or process, or*
  - *the likelihood of anything occurring or not occurring;*
- (5) *selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.*
2. *The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).*
3. *The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.*
4. (1) *The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.*
- (2) *The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.*
5. *The responsible person shall ensure that –*
- (1) *where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –*
- (i) *beer or cider: ½ pint;*
  - (ii) *gin, rum, vodka or whisky: 25 ml or 35 ml; and*
  - (iii) *still wine in a glass: 125 ml; and*

*(2) customers are made aware of the availability of these measures.*

6. *A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.*

6.1 *For the purposes of the condition set out in paragraph 1*

*(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;*

*(b) “permitted price” is the price found by applying the formula —  $P = D + (D \times V)$*

*where—*

*(i) P is the permitted price,*

*(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and*

*(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;*

*(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence*

*(i) the holder of the premises licence,*

*(ii) the designated premises supervisor (if any) in respect of such a licence, or*

*(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;*

*(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and*

*(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.*

6.2 *Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.*

6.3 (1) *Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.*

*(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.*

10.3 *The Licensing Authority may not attach to a licence authorising the performance of plays any condition which restricts the nature or manner of performing those plays (other than on the grounds of public safety).*

10.4 *With the exception of the above mandatory conditions, once its discretion is engaged the Licensing Authority will only attach necessary and proportionate conditions to a premises licence or club premises certificate or, in certain circumstances, a Temporary Event Notice*

where these:

- are consistent with the issues addressed in the operating schedule which the applicant submits as part of their application; and
- are appropriate for the promotion of the licensing objectives.

- 10.5 In so far as conditions proposed by any applicant is concerned the Guidance states that it is not acceptable for the licensing authorities to simply replicate the wording from the operating schedule. The authority will endeavour to interpret any condition in accordance with the applicant's intention and to express any such conditions in unequivocal and unambiguous terms.
- 10.6 The Licensing Authority will avoid attaching standard conditions to premises licences or club premises certificates
- 10.7 In so far as conditions proposed by any applicant is concerned, the guidance states that it is not acceptable for the licensing authorities to simply replicate the wording from the operating schedule. The authority will endeavour to interpret any condition in accordance with the applicant's intention.
- 10.8 The Licensing Authority will avoid, as far as possible, attaching conditions to licences/certificates that duplicate the same or similar duties that are already placed on an employer or operator of a premises under other existing laws. However, where these general duties do not adequately address specific issues additional and supplementary measures may be necessary to promote the licensing objectives.
- 10.9 A committee or board of individuals with responsibility for the management of community premises ("the management committee") may apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions. The alternative condition is that every supply of alcohol under the licence be made or authorised by the management committee.
- 10.10 Existing conditions relating to live music will not have effect in relation to the category of live music which is unregulated under the provisions of the Live Music Act 2012; unless on a review of the premises licence the authority adds a condition relating to live music as if it were regulated.

## **11. Appeals**

- 11.1 Entitlement to appeal against any decision of the Licensing Authority is set out in Schedule 5 of the Act.
- 11.2 There is no provision for appeals to Magistrates' court in respect of applications for minor variations or disapplication for requirement for Designated Premises Supervisors.

## **12. Enforcement**

- 12.1 Where necessary, enforcement action will be considered in accordance with the Compliance Code and the Council's General Enforcement Policy. These guidelines are available direct from East Suffolk Council and may be subject to periodic amendment.

- 12.2 The emphasis will be upon a risk-assessed and targeted approach to inspections, concentrating on those premises which either:
- present a greater risk;
  - have a history of non-compliance with conditions/regulation; or
  - demonstrate poor management practice which undermines the licensing objectives.
- 12.3 In consultation with other Responsible Authorities, a decision will be made to use the most appropriate enforcement authority depending on the circumstances.
- 12.4 The Licensing Authority will not normally undertake inspections routinely but may do so when and if they are considered by the Authority as reasonably necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with an enforcement role.
- 12.5 The Council has adopted a joint enforcement protocol with the other Responsible Authorities, as named in the Act and will in all cases seek a collaborative and partnership approach to the promotion of the licensing objectives.

Compliance support for licensed businesses includes:

- carrying out activities in a way that supports those they regulate to comply and grow;
  - providing simple and straightforward ways to engage with those they regulate and hear their views;
  - basing regulatory activities on risk;
  - sharing information about compliance and risk;
  - ensuring clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
  - ensuring the approach to regulatory activities are transparent.
- 12.6 The Licensing Authority will normally act as the enforcing authority in respect of offences under the Act, and for breaches of licence conditions, unless the circumstances of the particular case are such that it is appropriate for another responsible authority to act, in accordance with the agreed enforcement concordat, instead.
- 12.7 Suffolk Constabulary will retain responsibility as the enforcing authority in respect of the following offences under the Act:
- Section 97 Powers to enter and search
  - Section 143 Failure to leave licensed premises
  - Section 144 Keeping of smuggled goods
  - Section 155 Confiscation of alcohol;
  - Section 157 Power to prohibit sale of alcohol on a train; and
  - Part 8 offences with respect to closure of premises.
- 12.8 Suffolk County Council Trading Standards will retain responsibility as the enforcing authority in respect of the following offences under the Act, and may work in partnership where appropriate with Suffolk Constabulary in relation to the investigation and enforcement of underage sales:

- Section 146 Sale of alcohol to children
- Section 147 Allowing the sale of alcohol to children
- Section 147A Persistently selling alcohol to underage persons
- Section 154 Weights and measures offences  
(which enable Trading Standards Officers to conduct test purchases and authorise other persons to do so).

12.9 Where expedient for the promotion or protection of the interests of the inhabitants of their area, the Council may also take action under Section 222 of the Local Government Act 1972, and other relevant provisions including Section 40 of the Anti-Social Behaviour, Crime and Policing Act 2014. The Council will also have due regard to section 17 of the Crime and Disorder Act 1998 whilst carrying out its functions.

### **13 Closure Orders and Notices**

13.1 Part 8 of the Licensing Act 2003 provides for the arrangements relating to closure orders, and there are also powers available to the Local Authority and/or responsible authorities/court to close premises via other legislation on grounds of serious crime or disorder, persistent nuisance or protection of children - for example under the Violent Crime Reduction Act 2006, Criminal Justice and Immigration Act 2008 and Anti-Social Behaviour and Policing Act 2014.

13.2 Where a Magistrates' Court has determined to exercise its powers in respect of a closure order, the Licensing Authority must conduct a review of the relevant premises licence in accordance with procedures prescribed by regulation. This will normally involve:

- serving notice on the premises licence holder and responsible authorities and advertising the review in accordance with the regulations;
- holding a hearing in accordance with the procedures outlined in section 9 of this Statement of Licensing Policy to review the premises licence; and
- determining the review no later than 28 days after the day on which it receives the notice of the closure order from the Magistrates' Court.

13.3 When determining a review following the notice of a closure order, the Licensing Authority will consider:

- the closure order and any extension to it
- any order under section 165(2) and
- any relevant representations; and will

take such steps as it considers appropriate to promote the licensing objectives as outlined in section 22.4 of this Statement of Licensing Policy.

13.4 The Licensing Authority will notify the licence holder, the Chief Officer of Police and any person who made relevant representations of the outcome of the review hearing, including reasons for the decision. The Licensing Authority may suspend the operation of its decision until the end of the period given to appeal, or until the appeal is disposed of (if not already suspended by the Magistrates' Court).

### **14.1 Addressing the Licensing Objectives**

14.1.1 In respect of addressing each of the four licensing objectives in their Operating Schedule,

applicants should carefully consider what steps they believe are necessary to promote the licensing objectives, relevant to the individual style and characteristics of their premises and activities. Reference could be made as to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract larger audiences.

14.1.2 Whilst applicants are not required to seek the views of responsible authorities before formally submitting applications, the Licensing Authority strongly encourage applicants to do so when drafting their operating schedule as applicants may find this a source of useful advice when addressing the licensing objectives. This may in some instances reduce the possibility of responsible authorities, or other persons, raising representations against an application.

14.1.3 Applicants should be aware that any measures included in their operating schedule will be converted into conditions consistent with these measures attached to the licence. For this reason the applicant should, where possible, identify measures that specifically set out the action to be undertaken and who is responsible for that action. The Licensing Authority encourages applicants to state their proposed steps to promote the licensing objectives in unequivocal and unambiguous terms.

14.1.4 Organisers of large, temporary outdoor events (such as music festivals, fairs, shows and carnivals) are strongly encouraged to engage as early as possible with the responsible authorities to ensure that their planned event is developed in a way likely to promote the licensing objectives. They should also seek the advice of the district Safety Advisory Group.

## **14.2 Prevention of Crime and Disorder**

14.2.1 The Council is committed to further improving the quality of life in its area by continuing to help reduce crime and disorder and the fear of crime. To this end, the Licensing Authority strongly encourages applicants and licensees to ensure that relevant factors within their control which impact on crime and disorder have been considered, for example:

- underage drinking
- drunkenness on the premises
- drunkenness in public
- drugs
- violent behaviour
- anti-social behaviour
- firearms and weapons

14.2.2 Section 17 of the Crime and Disorder Act 1998 imposes a duty on each Local Authority 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, crime and disorder in its area.

14.2.3 In order to promote the prevention of crime and disorder objective, the Licensing Authority encourages licence holders to become active partners with both the Licensing and Responsible Authorities. Applicants are encouraged to demonstrate in their operating schedule that relevant, suitable and sufficient measures within their control have been considered and identified and will be implemented and maintained in order to reduce or prevent crime and disorder on, and in the vicinity of, their premises.



- 14.2.4 When addressing the issue of crime and disorder in their operating schedule, applicants may consider, but are not limited to, factors identified at paragraph 14.2.1 above.
- 14.2.5 Applicants may find it helpful to contact the local Police Licensing Officer or Safer Neighbourhood Team; in their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective and may be able to offer expert advice and guidance on local crime and disorder issues and promotion of this licensing objective.
- 14.2.6 The following examples of control measures are given purely to assist applicants with development their Operating Schedule, having regard to their particular type of premises and/or activities. These are not in any way to be regarded as standard conditions or mandatory requirements:
- (a) effective and responsible management of premises
  - (b) prevention of overcrowding/congregation flashpoints
  - (c) training and supervision of staff
  - (d) adoption of best practice guidance and other industry codes of practice
  - (e) use of accredited 'proof of age' schemes (for example Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions (see section 10 of this document)
  - (f) signing up to, and participating in, a Pubwatch or Nightsafe scheme where it is in operation
  - (g) provision and use of effective CCTV in and around premises (subject to relevant data protection codes of practice)
  - (h) use of Security Industry Authority licensed door staff (during specified days/times)
  - (i) provision of toughened, plastic, polycarbonate or Polyethylene Terephthalate (PET) glasses or the decanting of glass bottles into toughened, PET or plastic polycarbonate drinking glasses
  - (j) provision of secure deposit boxes for confiscated items ('amnesty bins')
  - (k) provision of litter bins and other security measures, such as lighting, outside premises
  - (l) control or prevention of customers entering and leaving with opened bottles/glasses – for example whilst they are observing smoke-free regulations
  - (m) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers
  - (n) implementation of a searching policy
  - (o) implementation of a dispersal policy
  - (p) risk assessment process to consider the crime and disorder implications of individual DJ's and promoters.
  - (q) effective and robust controls for third party hirings – for example hiring agreements and hirer vetting, premises supervision, signing-in books.
- 14.2.7 Within the operating schedule for premises from which alcohol will be sold, a premises supervisor must be designated (Designated Premises Supervisor or 'DPS'), unless a relevant community premises disapplication has been applied for/authorised. The DPS will often have been given the day-to-day responsibility for running the premises by the premises licence holder and, as such, will usually be the first point of contact for authorised officers. In exceptional circumstances, the police may object to the designation of a new DPS where they believe that such an appointment would undermine the crime prevention objective.
- 14.2.8 Where the police object to an individual being appointed as a Designated Premises Supervisor, or object to an application made by community premises management committee for the

inclusion of the alternative licence condition, the Licensing Authority will arrange for a hearing at which the issue can be considered in accordance with the procedure outlined in section 9 of this Statement of Licensing Policy.

14.2.9 The Licensing Sub-Committee considering the matter will confine their consideration to the prevention of crime and disorder objective.

14.2.10 Certain temporary events (see section 18 of this Statement of Licensing Policy) must be notified to the Licensing Authority using the Temporary Event Notice procedure. Depending on the nature and location of such temporary events these may, on occasion, have crime and disorder implications. Organisers of such events are encouraged to submit their notification as soon as reasonably practicable in advance of the event in line with existing statutory requirements, to enable the Police, the Environmental Health Team and the Local Authority to work with them to identify and reduce the risk of crime and disorder.

### **14.3 Public Safety**

14.3.1 The Council is committed to ensuring that the physical safety of any person visiting or working in licensed premises is not compromised. To this end, the Licensing Authority encourages applicants and licensees to conduct a risk assessment prior to completion of their operating schedule to ensure that relevant factors within their control which impact on public safety have been considered and identified. These factors may include, but are not limited to:

- (a) the occupancy capacity of the premises (including staff and performers). Note: If a capacity has been imposed/set through other legislation, for example under Fire Safety legislation, it may not be appropriate to reproduce it in a premises licence. Anticipated maximum capacity/attendance for large, temporary outdoor events should be made clear.
- (b) the age, design and layout of the premises, including means of escape in the event of fire or other emergency
- (c) the nature of the licensable activities to be provided and whether those activities are of a temporary, occasional or permanent nature
- (d) the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- (e) customer profile (such as age, disability or culture)
- (f) the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- (g) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.

14.3.2 The Licensing Authority shall not seek to impose fire safety conditions where the Regulatory Reform (Fire Safety) Order 2005 adequately controls such matters.

14.3.3 The following examples of possible control measures are given purely to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not in any way to be regarded as standard conditions or mandatory requirements:

- (a) suitable and sufficient risk-assessments. Some applicants may wish to consider a commitment in their operating schedule to providing the relevant authorities with a full risk assessment prior to the commencement of licensable activities (this may be particular relevant to large temporary outdoor events).

- (b) effective and responsible management of premises
- (c) provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons/staff
- (d) appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- (e) adoption of best practice guidance and other voluntary codes of practice (Note: Applicants may wish to contact the local Health & Safety officers or HSE for advice)
- (f) provision and use of effective CCTV in and around premises
- (g) provision of toughened, plastic, polycarbonate or polyethylene terephthalate (PET) glasses or the decanting of glass bottles into toughened, PET or plastic polycarbonate drinking glasses
- (h) implementation of crowd management measures
- (i) monitoring arrangements such as door staff, ticketing, attendance clickers or maintenance of attendance records
- (j) regular/periodic review and testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety.

#### **14.4 Prevention of Public Nuisance**

- 14.4.1 Licensed premises can have significant potential to impact adversely on persons in the vicinity through public nuisances that arise from their operation.
- 14.4.2 Subject to case law, the Licensing Authority interprets ‘public nuisance’ in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the vicinity of a licensed premises.
- 14.4.3 The Licensing Authority encourages applicants and licensees to conduct a risk assessment prior to completion of their operating schedule to ensure that relevant factors within their control which impact on public nuisance have been considered and identified.
- 14.4.4 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:
- they are situated in a residential or noise sensitive area; or
  - extended opening hours are proposed.
  - events include amplified outdoor music or speech.
- 14.4.5 When addressing the issue of prevention of public nuisance in their operating schedule, the applicant may identify steps to show that those factors that impact on the prevention of public nuisance objective have been considered. These may include, but are not limited to:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, care homes, hospices and places of worship
  - the hours of operation, particularly between 23.00hrs and 07.00hrs
  - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside
  - the design and layout of premises and in particular the presence of noise limiting features
  - the occupancy capacity of the premises
  - the availability of public transport/taxi and private hire services to assist the speedy dispersal of patrons after an event;
  - the hours during which licensable activities take place and closure of the premises

- last admission time

14.4.6 The following examples of control measures are given purely to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, and are not to be regarded in any way as standard conditions or mandatory requirements, but include:

- (a) effective and responsible management of premises
- (b) appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- (c) control of operating hours for all or parts (such as garden, patio and terraced areas) of premises, including such matters as deliveries or the collection or disposal of glassware.
- (d) impact on neighbours due to customers opening doors/going outside to observe smokefree regulations
- (e) adoption of best practice guidance (such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics, Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other industry codes of practice). The local Environmental Protection officer may be able to offer advice to assist in compliance with the Licensing Act objectives
- (f) installation and effective maintenance of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- (g) management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- (h) liaison with public transport/taxi and private hire service providers
- (i) siting of external lighting, including security lighting. The local Environmental Protection Officer may assist in ensuring any external lighting minimises the potential for light pollution nuisance
- (j) management arrangements for collection and disposal of litter
- (k) effective ventilation systems to prevent nuisance from odour
- (l) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.
- (j) implementation of a dispersal policy

14.4.7 Please note that applicants should consider contacting the local Planning Authority for advice on whether any proposed installation of lighting, ventilation, soundproofing, smoking shelter or other works require planning consent from the Planning Authority. This may be particularly relevant if the premises is a listed building.

## 14.5 Protection of Children from Harm

The Licensing Authority, once its discretion is engaged concerning an application, shall not seek to limit the access of children to any premises unless it is necessary for the prevention of their physical, moral or psychological harm. Consideration shall be given to the individual merits of each application.

The Act places responsibilities upon licence holders, while recognising that parents and others accompanying children also have responsibilities. Licensees should be aware that children will normally see licensees and their staff as responsible adults – and that children are particularly vulnerable to adults who are ‘responsible’ and ‘in authority’ if those adults use their position to develop inappropriate relationships or otherwise abuse children’s trust

- 14.5.1 Whilst the Licensing Authority cannot anticipate every possible issue of concern that could arise in respect of children in relation to individual premises, areas that will give rise to particular concern in respect of children would include premises:
- Where entertainment or services of an adult or sexual nature are provided (whether permanently or occasionally);
  - Where there have been convictions of members of the current staff at the premises for selling alcohol to minors or with a reputation for underage drinking;
  - With a known association with drug taking or dealing;
  - Where there is a strong element of gambling on the premises (but not for example the simple presence of a small number of cash prize gaming machines); and
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 14.5.2 Whilst it is not possible for the Licensing Authority to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature, examples would generally include topless bar staff, striptease, lap-dancing, table-dancing, pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. It should be noted that premises deemed as 'sexual entertainment venues' under the Policing and Crime Act 2009 are also likely to require an additional licence under the Local Government (Miscellaneous Provisions) Act 1982.
- 14.5.3 The 2003 Act made it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a Temporary Event Notice (TEN). 'Exclusively or primarily' in relation to the consumption of alcohol will bear their ordinary and natural meaning in the context of the particular circumstances.
- 14.5.4 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of a premises licence, club premises certificate or where that activity is carried on under the authority of a Temporary Event Notice (TEN).
- 14.5.5 The Licensing Authority considers that, subject only to the provisions of the 2003 Act and unless restriction of access is necessary to protect children from harm, this is a matter for the discretion of the licensee.
- 14.5.6 The Licensing Authority shall not seek to impose any condition on any licence or certificate requiring the admission of children.
- 14.5.7 Applicants are strongly encouraged to demonstrate in their operating schedule that they have considered and identified any suitable and sufficient measures relevant to the style, character and activities of their individual premises to protect children from harm.
- 14.5.8 Where it is necessary for promotion of the protection of children from harm licensing objective, there are a range of alternatives which may be considered for limiting the access of children. These could include:

- (a) Limitations on the hours during which children may be present;
- (b) Limitations excluding the presence of children under certain ages when particular activities are taking place;
- (c) Limitations on the parts of premises to which children might be given access;
- (d) Age limitations (below 18);
- (e) Requirements for accompanying adults; and
- (f) Full exclusion from those under 18 from the premises when any licensable activities are taking place.

14.5.9 The following examples of possible control measures are given purely to assist applicants with preparing their operating schedules, having regard to their particular type of premises and activities. These examples are not exhaustive, and are not in any way to be treated as standard conditions or mandatory requirements, but include:

- (a) provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- (b) appropriate instruction, training, supervision and background checks of those employed or engaged to secure the protection of children from harm
- (c) adoption of best practice guidance
- (d) limitations on the hours when children may be present in all or parts of the premises
- (e) the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises
- (f) an adequate number of adult staff to be responsible for the child performers, checked by the Disclosure and Barring Service.
- (g) use of accredited 'proof of age' schemes (for example Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions (see 10.2 of this document)

14.5.10 Where film exhibitions are authorised at a premises, the licence shall include a mandatory condition (section 20 of the Act) requiring that children are restricted from viewing age-restricted films in accordance with the British Board of Film Classification (BBFC), or in accordance with any recommendation made by the Licensing Authority.

14.5.11 The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes.

14.5.12 Where film exhibitions are given at premises, licensees must ensure that children are restricted from viewing age-restricted films classified according to the British Board of Film Classification, or by the Licensing Authority. (see section 9).

14.5.13 The Licensing Authority recognises the Suffolk Safeguarding Partnership, or its designated nominee, as being competent to advise on matters relating to the protection of children from harm. The contact details are available from the Licensing Team or [www.eastsuffolk.gov.uk](http://www.eastsuffolk.gov.uk)

14.5.14 Suffolk County Council Trading Standards and Suffolk Constabulary may, in conjunction with other appropriate agencies, conduct test purchases to check the compliance of retailers with the prohibition on underage sales of alcohol.

## **15. Personal Licences**

- 15.1 The Licensing Authority will grant a personal licence if the applicant has met the requirements set out in the Act and no objections are received from the Suffolk Constabulary. All applicants must provide evidence of their right to work in the UK.
- 15.2 Where an applicant is found to have an unspent conviction for a relevant offence or a foreign offence, and the police object to the application on crime prevention grounds, the application will normally be referred to a Sub-Committee of the Licensing Committee.
- 15.3 The Licensing Authority also has the power to suspend or revoke a personal licence where it becomes aware that the holder has been convicted of a relevant offence, a foreign offence, or required to pay an immigration penalty.
- 15.4 Any hearing will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.
- 15.5 All personal licence holders should ensure they are aware of the offences relating to personal licences, for example the duty of the holder to advise the Court of the existence of their personal licence if charged with a relevant offence and to advise the Licensing Authority of changes to name or address.
- 15.6 In accordance with the Guidance issued under section 182 of the Licensing Act 2003, the Licensing Authority recommends that personal licence holders (and DPSs/authorised community premises management committees) overtly authorise individuals in writing to sell alcohol under the authority of their personal licence/duty where the personal licence holder or DPS/management committee is unable to authorise the transaction(s) in person.
- 15.7 The Licensing Authority considers that, when establishing whether or not an authorisation has been given for the retail sale of alcohol, the following factors are relevant:
- there should be an overt act of authorisation, (this could, for example, be a specific written statement given to the individual being authorised);
  - the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
  - the authorisation should specify the acts which may be carried out by the person authorised; and
  - there should be in place sensible arrangements for the personal licence holder to monitor the activity authorised on reasonably regular basis.
  - training records should be kept relevant to the training provided to each individual authorised by the personal licence holder

## **16. Applications for Premises Licences**

- 16.1 Guidance on making an application and information, such as contact details for responsible authorities, is available on the Council website at [www.eastsuffolk.gov.uk](http://www.eastsuffolk.gov.uk) or by contacting the Licensing Team.
- 16.2 Individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK and must provide evidence accordingly. This includes applications made by more than one individual applicant. An application made by an individual without the

entitlement to work in the UK must be rejected.

- 16.3 Pre-application discussions with responsible authorities are strongly encouraged to assist applicants with development of their operating schedule in a way which is likely to promote the licensing objectives.
- 16.4 The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so the Licensing Authority will be mindful of the legislative framework and any relevant government guidance. It may also extend the normal time limits for hearings where it is considered in the public interest to do so (for example where all parties are on the point of reaching agreement, or so as to ensure that it is possible for a party to attend the hearing).
- 16.5 An application may be made to the Licensing Authority for any place within its area to be used for licensable activities or recognised club activities. The application requirements are prescribed by regulation and will normally include:
- a) the completed application form;
  - b) the prescribed fee;
  - c) an operating schedule;
  - d) plan of the premises, in accordance with regulatory requirements; and
  - e) if it is intended that the premises be authorised to sell alcohol, a form of consent given by the person the applicant wishes to have specified in the Premises Licence as the Designated Premises Supervisor (DPS), or else request to dis-apply this usual requirement if for an eligible 'community premises'.
  - f) for individual applicants, evidence to right to work in the UK.
- 16.6 The Operating Schedule will include a statement of:
- a) the relevant licensable activities, including a description of the style and character of the business and activities to be conducted on the premises;
  - b) the times during which the applicant proposes that the relevant licensable activities are to take place;
  - c) any other times during which the applicant proposes that the premises are to be open to the public;
  - d) where the applicant wishes the licence to have effect for a limited period, that period;
  - e) where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor and a consent form signed by that person including details of their personal licence (or else a 'community premises' disapplication request may be applicable);
  - f) where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
  - g) the steps which the applicant proposes to take to promote the licensing objectives; and
  - h) any other prescribed matters.
- 16.7 Where relevant representations are received about an application, and those representations are not withdrawn, the application will normally be referred to a Sub-Committee of the Licensing Committee, which will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.



- 16.8 Where a premises licence application is being applied for to authorise a large scale outdoor event of a temporary nature (for example a music concert, street fair, show or carnival) the Licensing Authority strongly recommends that applicants contact the responsible authorities as soon as possible in advance of making their application in order to seek expert advice and guidance on formulation of their operating schedule to ensure that the event runs safely and with a view to promoting the four licensing objectives.
- 16.9 In the event that an application relates to the sale or supply of alcohol from premises that are used as a garage, or are part of the premises used as a garage, and where there is doubt over whether Section 176 of the 2003 Act is called into question, it will be the responsibility of the Licensing Authority to determine the intensity of use and whether it is used primarily as a garage. Where there is insufficient evidence to establish primary use, it will be the responsibility of the Licensing Authority to decide whether to grant the licence and deal with any issues through enforcement action or to defer granting the licence until the primary use issue can be resolved.
- 16.10 Applications and notices can be submitted on any working day as defined in the Act.
- 16.11 Applicants may be required to provide written confirmation that applications have been advertised as required by regulations.

## **17. Club Premises Certificates**

- 17.1 Paragraphs 16.1 to 16.3 above apply
- 17.2. The application requirements for a Club Premises Certificate are set by regulation and will normally include provision of:
- a) the relevant fee;
  - b) the Club Operating Schedule;
  - c) a plan of the premises in accordance with regulatory requirements;
  - d) a copy of the rules of the Club; and
  - e) details to verify that the Club is a qualifying Club
- 17.3 The Club Operating Schedule will contain the following information:
- a) details of the recognised Club activities to which the application relates;
  - b) the times during which it is proposed the recognised Club activities take place;
  - c) any other times during which it is proposed the premises are open to members and their guests;
  - d) the steps which it is proposed to take to promote the licensing objectives; and
  - e) any other prescribed matters.
- 17.4. Where relevant representations are received in respect of an application, and those representations are not withdrawn, the application will normally be referred to a Sub-Committee of the Licensing Committee, and the hearing will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

## **18. Temporary Events Notices (TENS)**

- 18.1 The Act sets out the terms and conditions under which an application for a TEN may be made. A standard TEN must be applied for a minimum of 10 working days prior to the first day of the

event, and the Licensing Authority recommend that wherever possible notice-givers submit their TEN a minimum of 28 days prior to the commencement of the event. Should any statutory modifications be made to the TENS system, for example relating to service requirements, then the Licensing Authority shall have due regard to these and publicise any such changes including via its website at [www.eastsuffolk.gov.uk](http://www.eastsuffolk.gov.uk)

There also is provision for making an application for a late TEN. Such application may be made no earlier than 9 working days before the event and no less than 5 working days before the event. Again, the Licensing Authority understands this to mean 9 or 5 days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.

- 18.2 Where either a standard TEN or a late TEN is given and one or more of the relevant statutory limits are exceeded, the Licensing Authority will serve a Counter-Notice on the notice giver in accordance with section 107 of the Licensing Act 2003 to prevent the licensable activities from going ahead. There is no provision under the Act to appeal against the issue of a Counter-Notice.
- 18.3 Where a TEN complies with the statutory requirements, and neither the Suffolk Constabulary nor Environmental Health have not submitted an objection notice to the Licensing Authority within the prescribed time, the Licensing Authority shall record the notice in its licensing register and send an acknowledgement to the premises user. The event may then proceed in accordance with the submission within the Temporary Event Notice.
- 18.4 Where the Suffolk Constabulary or Environmental Health have issued an objection notice, to a standard TEN, the Licensing Authority will normally consider this at a hearing (unless the objection notice is withdrawn before the hearing date). The hearing will be confined to consideration of the crime and disorder objective and will be held in accordance with the procedure outlined in section 9 above
- 18.5 If the TEN is submitted, and there is an objection notice, for an event that is a premises that has either a premises licence or club premises certificate for all or part of the premises then the licensing authority can add conditions to the TEN provided such conditions are appropriate for the promotion of the licensing objectives and are consistent with the carrying out of the licensable activities under the TEN.
- 18.6 Where either the Suffolk Constabulary or Environmental Health issue an objection notice to a late TEN, there is no provision either for the Licensing Authority to consider a hearing or add conditions and therefore the event cannot proceed.
- 18.7 The Licensing Authority will notify the applicant of its decision at least 24 hours before the beginning of the event period specified in the temporary event notice.

## **19. Provisional Statements**

- 19.1. The Act sets out the terms and conditions under which an application for a provisional statement may be made.
- 19.2 Where a Provisional Statement has been issued and a person subsequently applies for a Premises Licence in respect of the premises in accordance with the provisions of the Licensing Act, representations made by a person to the Licensing Authority will not be taken into account if:

- (a) Given the information in the application for a Provisional Statement, the person objecting could have made the same, or substantially the same, representations about the application but failed to do so without reasonable excuse; and,
- (b) There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

## **20. Variations of Licences**

- 20.1 Where a premises licence holder wishes to amend the licence the Act allows, in most cases, for an application to be made to vary the licence rather than requiring an application to be made for a new licence. It should be noted that 'substantial variations' may not be applied for using the variation procedures prescribed by section 34 of the Act, instead substantial changes, for example an amendment to the duration of the licence or transfer of the licence from one premises to another, will require a new application under section 17 of the Act.
- 20.2
- 20.3 In the case of a change of name or address of someone named in the licence (section 33) or application to vary the individual specified in the licence as DPS (section 37) there are simplified processes for making such applications.
- 20.4 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 (SI 2009/1724) amends the 2003 Act to allow certain 'community premises' which have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) of the 2003 Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act.
- 20.5 The Act and Guidance set out the terms, conditions and considerations under which an application for a minor variation, or request from the management of 'community premises' to disapply the usual mandatory conditions, may be made. Minor variation processes may be applied for in some circumstances, subject to some specific exclusions, to reduce the normal service, advertising and consultation requirements (and associated financial impacts in cost and time).
- 20.6 The minor variation process is intended for some small variations to licences/certificates that will not adversely impact on promotion of the licensing objectives (for example small variations to layout or some minor alterations to activities, timing or conditions). In each case the Licensing Authority will consult the relevant Responsible Authorities and make a decision on whether the variation could impact adversely on the licensing objectives. This process also makes a more limited provision for other persons to make comment on the proposals.
- 20.7 In determining these applications, under his/her delegated authority on behalf of the Licensing Authority, the Licensing Officer shall carefully assess each application on a case-by-case basis in the light of government guidance and all relevant factors. The licence/certificate holder may wish to seek advice from responsible authorities, in advance of submitting an application, as to whether the licensing objectives are likely to be affected by the proposals.
- 20.8 If relevant representations are made and not withdrawn the Licensing Authority will normally hold a hearing in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy, and at that hearing the Licensing Authority may:
  - a) Grant the application as applied for, subject only to any conditions consistent with the

- operating schedule and any relevant mandatory conditions;
- b) Modify the conditions (either by means of omission, inclusion or amendment) of the licence; or
- c) Reject the application in whole or in part.

20.9 The Licensing Authority may determine a licence so that different conditions may apply to:

- a) different parts of the premises concerned; and
- b) different licensable activities,

where to do so would be considered necessary and proportionate for promotion of the licensing objectives.

20.10 Where the police submit an objection to an application to vary a Designated Premises Supervisor (DPS), or from a community premises to disapply the usual mandatory conditions, because they consider that the circumstances are such that granting it would undermine the crime and disorder objective then a hearing will normally be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

## **21. Transfer of Premises Licences**

21.1. Where an application is lawfully made under the Act for the transfer of a licence and the Police submit an objection to the application, the Licensing Authority will normally hold a hearing in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy. This hearing will be confined to consideration of the crime and disorder objective and the application may be rejected where the Licensing Authority considers it appropriate for the promotion of the crime prevention objective to do so. All individual applicants must provide evidence of their right to work in the UK.

## **22. Reviews**

22.1 The review of a premises licence or club premises certificate is a key protection for local communities where problems associated with one or more of the licensing objectives are occurring and these are linked to the operation of licensed premises.

22.2 Where relevant representations are made about an existing licence the Licensing Authority will normally hold a hearing which will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy to consider them unless:

- a) the representation is considered frivolous, vexatious or to be repetitious (that is, identical or substantially similar to a ground specified in an earlier application for a licence, provisional statement or review); or
- b) All parties to the hearing, including those persons making representations, agree that the hearing is not necessary.

22.3 A review of the premises licence will normally also follow:

- a) any action instigated by the Police to close down the premises for up to 24 hours on grounds of disorder or public nuisance;
- b) summary review powers of the Police pursuant to section 21 (regarding serious crime and disorder) of the Violent Crime Reduction Act 2006 ; or
- c) any exercise of the closure order powers available to the magistrates' court.

22.4 In determining a review application at a hearing, the Licensing Authority may take such steps as it considers appropriate to promote the licensing objectives, which include:

- a) modifying the conditions of the licence (by inclusion, amendment or omission);
- b) excluding a licensable activity from the scope of a licence;
- c) removing a designated premises supervisor;
- d) suspending the licence for a period not exceeding three months; or
- e) revoking the licence.

22.5 Where the Police make application for summary review under section 53A of the Licensing Act 2003 the relevant licensing authority will normally consider whether it is necessary to take interim steps pending the determination of the review applied for. Such consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority. The interim steps the relevant licensing authority must consider taking are -

- (a) modification of the conditions of the premises licence;
- (b) exclusion of the sale of alcohol by retail from the scope of the licence;
- (c) removal of the designated premises supervisor from the licence; and
- (d) suspension of the licence.

Should a summary review be instigated, the Licensing Authority shall follow the procedures as set out in the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007.

22.6 Applications may also be made for the review of licences which are held by a management committee in respect of community premises, and which include the alternative licence condition instead of the normal mandatory conditions. In relation to such applications, the licensing authority may determine that the normal mandatory conditions should apply instead of the alternative condition if it considers this to be appropriate for the promotion of the licensing objectives. Such a determination may be reached following the usual procedure for review applications set out in sections 51 to 53 of the Act.

22.7 The outcome of a review hearing will not ordinarily have effect until such time as the period given for appealing (normally 21 days) expires or an appeal is disposed of.

## **23 Fees**

23.1 Section 55A of the Licensing Act 2003 allows Licensing authorities to suspend licences due to non-payment of the annual fee. The licence will be reinstated as soon as the fee is paid and the licensing authority must notify the licence holder of receipt of the fee. If an administrative error has occurred, then the suspension of a licence will be become invalid.

23.2 The late night levy (LNL) is another power for licensing authorities. An additional fee may be charged for premises that have a late alcohol licence. Whether or not to implement the levy will be left entirely at the discretion of the licensing authority that will make the decision based on the situation in its local area.

## **24 Ancillary Delivery of Alcohol and/or Late Night Refreshment**

24.1 Applications for premises that intend to sell alcohol and/or late-night refreshment for

delivery to customers at a residential or workplace address, which is ancillary to the main use of the premises, will generally be granted subject to not being contrary to other policies within this Statement of Licensing Policy and that it meets the criteria below:

- The hours when delivery will take place is within the relevant operating hours for that premises use
- The delivery of alcohol and/or late-night refreshment to customers at their residential address or workplace will be ancillary to the main premises use

That the applicant will:

- implement their own age verification procedures for the sale and supply of alcohol for their delivery staff and ensure that they receive regular training in the company's age verification procedures, or
- ensure that any third party, to which they have contracted the delivery of alcohol and/or food has sufficient age verification procedures in place for the sale of alcohol and has regular training for its delivery personnel on their age verification procedures.

That the applicant will:

- implement their own procedures and provide mitigation to reduce the risk that their delivery service and delivery personnel will create public nuisance either at the premises where the delivery originates and at the delivery destination, or
- ensure that any third party, to which they have contracted their delivery service to have sufficient procedures and mitigation in place to ensure that their delivery personnel do not create public nuisance either at the premises where the delivery originates and at the delivery destination.

Applications that do not meet the above criteria will be considered on their own merits, subject to other relevant information within this statement.

## Agenda Item 7

ES/1700

**From:** [Sarah Morrison](#)  
**To:** [Licensing](#)  
**Cc:** [Ash Tadjrishi](#); [Debbie Frost](#)  
**Subject:** Comment on the Sixth Version Licensing Act 2003 Statement of Licensing Policy  
**Date:** 16 August 2023 12:42:02

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**'Committee found the document to be very comprehensive and easy to read. It was felt, however, that it would be helpful to view a document that showed how it has been amended from its predecessor.'**

Please see the above comment which the Planning and Environment Committee 16 August made with regard to the ESC Consultation on its draft Statement of Licensing Policy.

Kind regards

Sarah Morrison  
Planning Administration Assistant

**FELIXSTOWE**  
TOWN COUNCIL  
Town Hall, Felixstowe, Suffolk. IP11 2AG

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**From:** [Daniel Kinsman](#)  
**To:** [Teresa Bailey](#)  
**Cc:** [Licensing](#); [Jeannette Hollingsworth](#)  
**Subject:** FW: Licensing Act 2003 - Consultation on Revised Statement of Licensing Policy  
**Date:** 07 August 2023 12:22:09  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image007.png](#)

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Hi Teresa

I've reviewed the draft Statement of Licensing Policy. All looks fine to me. I just have a query in regard to Section 18.4 and TENs where objection is raised by Police or Env. Health. It states that the hearing would be confined to consideration of the 'Crime and Disorder' licensing objective only.

Could you just remind me, if EP raise an objection to a TEN, can it only be on the grounds of Crime & Disorder, not Prevention of Public Nuisance?

Thanks

Dan



**Daniel Kinsman** BSc(Hons), MCIEH, MIOA, REnvH

**Environmental Health Officer**

East Suffolk Council

07776 144258

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**We are East Suffolk**



**From:** [Molly Thomas-Meyer](#)  
**To:** [Licensing](#)  
**Cc:** [Public Health Licensing](#)  
**Subject:** FW: Licensing Act 2003 - Consultation on Revised Statement of Licensing Policy  
**Date:** 08 August 2023 17:15:06  
**Attachments:** [image007.png](#)  
[image001.png](#)  
[Statement-of-Licensing-Policy-2024-2029-Consultation.pdf](#)

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Hello Teresa

Thank you for the opportunity to comment on the draft. I have two suggestions:

P5. 1.5 to b) reduce alcohol misuse 'by individuals and reduce public harms from excessive alcohol consumption which can lead to short and long term injury or harm.'

P9 5.1 additional bullet point 'an increase in opportunities for excessive alcohol consumption by individuals leading to an increased risk of ill health or harm in themselves or to others'

Kind regards

Molly

Dr Molly Thomas-Meyer (mol-ee may-er she/her)  
Public Health Consultant  
Assistant Director, Public Health & Communities and Consultant Place Lead (West)  
MBBS, MA Hons, MPhil, MSc, MFPH  
GMC number: 7044511

Public Health, Suffolk County Council, Endeavour House, Russell Road, Ipswich, IP1 2BX



Please note my working days are Monday to Thursday

**I may send emails at a time that reflects my flexible working pattern, but I do not expect you to open or answer them outside your own core working hours.**



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## LICENSING COMMITTEE

Monday, 16 October 2023

<b>Subject</b>	Issued licences in East Suffolk and an overview of the work of the Licensing Sub-Committees – July to September 2023
<b>Cabinet Member</b>	Councillor Jan Candy Cabinet Member with responsibility for Community Health
<b>Report Author(s)</b>	Martin Clarke Licensing Manager and Housing Lead Lawyer <a href="mailto:martin.clarke@eastsoffolk.gov.uk">martin.clarke@eastsoffolk.gov.uk</a>
<b>Head of Service</b>	Chris Bing Head of Legal and Democratic Services <a href="mailto:chris.bing@eastsoffolk.gov.uk">chris.bing@eastsoffolk.gov.uk</a>
<b>Director</b>	Kate Blakemore Strategic Director <a href="mailto:kate.blakemore@eastsoffolk.gov.uk">kate.blakemore@eastsoffolk.gov.uk</a>

Is the report Open or Exempt?	OPEN
-------------------------------	------

Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.	Not applicable
<b>Wards Affected:</b>	All Wards

## Purpose and high-level overview

**Purpose of Report:**

This report provides an overview of the current number and licences issued with regard to the Licensing Act 2003, the Gambling Act 2005 and taxis by East Suffolk Council. The report also summarises the applications received and the work of the Licensing Sub-Committees from July to September 2023.

**Options:**

Not applicable. This is an update report for noting.

**Recommendation/s:**

That the overview of some of the work of the Licensing Team and the Licensing Sub-committees during the third quarter of 2023 be noted.

## Corporate Impact Assessment

**Governance:**

Licensing is a Council function exercised by Licensing Committee and Licensing Sub-Committees.

**ESC policies and strategies that directly apply to the proposal:**

Not applicable. This is an update report for noting.

**Environmental:**

Not applicable. This is an update report for noting.

**Equalities and Diversity:**

Not applicable. This is an update report for noting.

**Financial:**

Not applicable. This is an update report for noting.

**Human Resources:**

Not applicable. This is an update report for noting.

**ICT:**

Not applicable. This is an update report for noting.

**Legal:**

Not applicable. This is an update report for noting.

**Risk:**

Not applicable. This is an update report for noting.

**External Consultees:**

Not applicable. This is an update report for noting.

## Strategic Plan Priorities

Select the priorities of the <a href="#">Strategic Plan</a> which are supported by this proposal: (Select only one primary and as many secondary as appropriate)		Primary priority	Secondary priorities
<b>T01</b>	<b>Growing our Economy</b>		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>T02</b>	<b>Enabling our Communities</b>		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input checked="" type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
<b>T03</b>	<b>Maintaining Financial Sustainability</b>		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
<b>T04</b>	<b>Delivering Digital Transformation</b>		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T05</b>	<b>Caring for our Environment</b>		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
<b>XXX</b>	<b>Governance</b>		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>
<b>How does this proposal support the priorities selected?</b>			
Not applicable. This is an update report for noting.			

## Background and Justification for Recommendation

1 Background facts				
1.1	Applications determined during April – June 2023			
Premises and type of application	Address	Hearing/mediated	Date of Hearing	Outcome
Mini Town Express NEW	92 Hamilton Road, Felixstowe, IP11 7AD	No	N/A	Cons end 31.5.23 Issued 28.6.23
WV at No 2 NEW WITHDRAWN 6.7.23	2 Blyburgate, Beccles, NR34 9TA	No	N/A	Cons 10.7.23
Folk East VARIATION PREM2039	Glemham Hall, Little Glemham, Woodbridge, IP13 0BT	No	N/A	Cons end 28.6.23 Issued 30.6.23
Framlingham Local Stores NEW PREM2267	22 Bridge Street, Framlingham, IP13 9AH	Yes	18.7.23	Cons end 22.6.23 Issued 19.7.23
Bungay Street Market NEW WPREM2608	Earsham St, Chaucer St, Cross St & Buttercross, Bungay	No	N/A	Cons end 3.7.23 Issued 4.7.23
The Most Easterly Pride NEW – only for 5.8.23 WPREM2609	Ness Park, Whapload Road, Lowestoft, NR32 1XG	No	N/A	Cons end 4.7.23 Issued 7.7.23
The Waffle Shack NEW PREM2263	Unit 15 Beach Street, Micklegate Road, Felixstowe, IP11 2GN	No	N/A	Cons end 5.7.23 Issued 6.7.23
Hotel Katherine SURRENDER WPREM2503	49 Kirkley Cliff Road, Lowestoft, NR33 0DF	N/A	N/A	Surrendered 12.6.23  Completed 14.7.23
Royal Bengal NEW PREM2264	6 Quay Street, Woodbridge, IP12 1BX	No	N/A	Cons end 10.7.23 Issued 11.7.23
Poundland NEW WPREM2610	Unit 1 North Quay Retail Park, Peto Way, Lowestoft, NR32 2ED	No	N/A	Cons end 10.7.23 Completed 14.7.23
VW Beetlejuiced Festival SURRENDER PREM2235	Glemham Hall, Little Glemham, Woodbridge, IP13 0BT	N/A	N/A	Surrendered 16.6.23 Completed 13.7.23

Brandeston Village Hall Variation/New PREM2265	The Street, Brandeston, Woodbridge, IP13 7AD	No	N/A	Cons end 12.7.23 Issued 13.7.23
Brandeston Village Hall SURRENDER PREM0409 – no alcohol	The Street, Brandeston, Woodbridge, IP13 7AD	N/A	N/A	Surrendered & completed 13.7.23
Polish Hut SURRENDER PREM2074	10 Orwell Road, Felixstowe, IP11 7HD	N/A	N/A	Surrendered 14.6.23 Completed 13.7.23
Blackshore Fish Co NEW WPREM2612	Fishing Hut W19, Southwold Harbour, Blackshore, Southwold, IP18 6TA	Yes	7.8.23	Cons end 17.7.23  Issued 8.8.23
Black Dog Deli Yoxford NEW PREM2266	The Old Post Office, Suffolk House, High Street, Saxmundham, IP17 3EP	No	N/A	Cons end 17.7.23 Issued 19.7.23
Taberna Saltpeter NEW PREM2268	Catering Unit 24, Beach Street, Micklegate Road, Felixstowe, IP11 2GN	No	N/A	Cons end 17.7.23 Issued 19.7.23
Iceland SURRENDER WPREM2171	4b & 4c Taylors Square, Newgate, Beccles, NR34 9QB	N/A	N/A	Surrendered 20.6.23 Completed 19.7.23
GG's Bistro NEW WPREM2613	50 Dukes Head Street, Lowestoft, NR32 1JY	No	N/A	Cons end 20.7.23 Need DPS details Issued 30.8.23
American Hut Pizza SURRENDER PREM2207	119-121 Hamilton Road, Felixstowe, IP1 7BL	N/A	N/A	Surrendered 26.6.23 Completed 25.7.23
Trinity Park UK Live SURRENDER PREM2245	Trinity Park Fields, Felixstowe Road, Ipswich, IP3 8UH	N/A	N/A	Surrendered 29.6.23 Completed 7.8.23
Everitt Park Café VARIATION WPREM2119	Nicholas Everitt Park, Bridge Road, Oulton Broad, NR33 9JR	Yes	25.8.23	Cons end 31.7.23 Issued 27.9.23
Tiny Tipple Company SURRENDER WPREM2559	Ivy Cottage, 29 The Street, Blundeston, NR32 5AA	N/A	N/A	Surrendered 4.7.23 Completed 7.8.23

Cooperative VARIATION WPREM2441	Saxons Way, Halesworth, IP19 8LU	No	N/A	Cons end 3.8.23 Issued 4.8.23
Gelato and Sorbetto NEW WPREM2611	9 Market Place, Bungay, NR35 1AP	No	N/A	Cons end 4.8.23 Now end 7.8.23 Issued 8.8.23
The Boathouse VARIATION PREM2175	Unit B The Chandlery, Tide Mill Way, Woodbridge, IP12 1FP	No	N/A	Cons end 7.8.23 Issued 10.8.23
Alba Chiara REVIEW PREM2185	91-93 Undercliff Road West, Felixstowe, IP11 2AF	Yes	24.8.23	Cons end 8.8.23 Issued 24.8.23
Sole Bay Fishing Co VARIATION WPREM2343	Fisherman's Hut E22 Blackshore, Southwold, IP18 6ND	Yes	N/A	Cons end 10.8.23 Issued 21.8.23
Bullards Spirits SURRENDER WPREM2591	17 Market Place, Southwold, IP18 6EB	N/A	N/A	Surrendered 20.7.23 Completed 30.8.23
Tillo's NEW WPREM2614	111 Bridge Road, Oulton Broad, NR33 9JU	No	N/A	Cons end 24.8.23 Issued 30.8.23
Flora Tea Rooms VARIATION PREM2215	Beach Road, Dunwich, IP17 3EN	No	N/A	Cons end 24.8.23 Issued 4.9.23
Barnards Centre Point CANCEL WPREM2020	Barnards Meadow, Barnards Way, Lowestoft, NR32 2HF	N/A	N/A	Cancelled 28.7.23
Bungay Pool & Gym CANCEL WPREM2052	St Johns Road, Bungay, NR35 1PH	N/A	N/A	Cancelled 28.7.23
Nirvana Health & Fitness CANCEL WPREM2265	60 Pinbush Road, Lowestoft, NR33 7NL	N/A	N/A	Cancelled 28.7.23
The Little Wine Bar SURRENDER PREM2258	288 High Street, Walton, Felixstowe, IP11 9EB	N/A	N/A	Surrendered 17.8.23 Completed 1.9.23
Suffolk Punch Trust SURRENDER PREM2041	St Davids Place, Hollesley, IP12 3JR	N/A	N/A	Surrendered 31.7.23 Completed 4.9.23
McDonalds NEW	Leisure Way, Lowestoft	Yes	6.10.23	Cons end 13.9.23

Jubilee Park NEW PREM2269	17 Mayhew Road, Rendlesham, IP12 2GT	No	N/A	Cons end 14.9.23 Issued 20.9.23
Corton Village Hall SURRENDER WPREM2086 No Alcohol	The Street, Corton, NR32 5HN	N/A	N/A	Surrendered 10.8.23 Completed 11.9.23
Halesworth Local NEW	27 Market Place, Halesworth, IP19 8AY	Yes	4.10.23	Cons end 19.9.23
Waveney SUMMARY REVIEW WPREM2406	132-134 Bridge Road, Oulton Broad, NR33 9JT	Yes	31.8.23 15.9.23	Cons end 12.9.23 Issued 19.9.23
Indiagate Tandoori Restaurant REVIEW WPREM2176	16 Newgate, Beccles, NR34 9QD	Yes	31.10.23	Cons end 4.10.23 NOT REQUIRED as licence LAPSED
Lowestoft Tandoori REVIEW WPREM2101	176 High Street, Lowestoft, NR32 1HU	Yes	8.11.23	Cons end 11.10.23
Indiagate Tandoori Restaurant LAPSED WPREM2176	16 Newgate, Beccles, NR34 9QD	N/A	N/A	Lapsed Dec 2017 Completed 14.9.23
Bacchus Beyond NEW	The Basement Studio, The Rear 25 Market Place, Halesworth, IP19 8AY			Cons end 18.10.23
YouDrink Stall SURRENDER WPREM2587	Kessingland Car Boot, Whites Lane, Kessingland, NR33 7TF	N/A	N/A	Surrendered 22.9.23
1.2	<b>Appeals to Magistrates Court</b> There are currently no appeals to the Magistrates Court.			



1.3	<p><b>28 day consultation period has passed, and application is still to be determined</b></p> <p>There is currently three applications waiting to be considered by the Licensing Sub-committee:</p> <p>New Premises Licence – Halesworth Local, Halesworth – the hearing is on 4 October 2023.</p> <p>New Premises Licence – McDonalds Restaurant, Lowestoft – the hearing is on 6 October 2023.</p> <p>Review of Premises Licence – Lowestoft Tandoori, Lowestoft – the hearing is on 8 November 2023.</p>
1.4	<p><b>In consultation</b></p> <p>Review of Premises Licence – Lowestoft Tandoori, Lowestoft. Consultation period ends on 11 October 2023.</p> <p>New Premises Licence – Bacchus Beyond, Halesworth. Consultation period ends on 18 October 2023.</p>
1.5	<p>There have been eight Sub-committee hearings regarding licensed or gambling premises, or personal licences during the period July to September 2023:</p> <p>18/7/2023 – New premises licence Framlingham Local</p> <p>7/8/23 – New premises licence Blackshore Fish Co, Southwold</p> <p>14/8/23 – Temporary Event Notice Ilketshall St Andrew</p> <p>24/8/23 – Review of premises licence – Alba Chiara Felixstowe</p> <p>13/9/23 – Film classification Suffolk Shorts</p> <p>15/9/23 – Summary Review Waveney Oulton Broad</p> <p>28/9/23 – Film classification Lowestoft Film Festival</p> <p>29/9/23 - Film classification Lowestoft Film Festival</p>

## 2 Current position

2.1

### Licensing Act Premises

On **26 June 2023** there were 1066 Premises Licences and 927 of these include alcohol on the licence.

There were 62 Club Premises Licences.

On **28 September 2023** there were 1063 Premises Licences and 926 of these include alcohol on the licence.

There were 62 Club Premises Licences.

15 new Premises Licences were granted between June and September 2023.

15 Premises Licences were surrendered.

No Club Premises Certificate were surrendered.

In summary, on 26 June 2023 there were 1128 Premises Licences and Club Premises Licences, and on 28 September 2023, there were 1125.

### Licensing Act Premises Comparisons

Date	Number of premises licences and club premises certificates
1 January 2020	1070
1 July 2020	1071
1 January 2021	1073
1 July 2021	1086
1 January 2022	1093
1 July 2022	1111
23 December 2022	1125
26 June 2023	1128
28 September 2023	1125

2.2

### Gambling Act Premises

On **26 June 2023** there were 34 Gambling Premises Licences in total.

On **28 September 2023** there were 34 gambling premises licences in total.

There were 9 Bingo Premises Licences.

There were 10 Adult Gaming Centre Premises Licences.

There was 1 Family Entertainment Centre Premises Licence.

There was 1 Betting Premises Licence (in respect of a track)

There were 13 Betting Premises Licences (in respect of a premises other than a track).

### Gambling Act Premises Comparisons

Date	Number of premises licences and club premises certificates
------	--

	1 January 2020	40
	1 July 2020	40
	1 January 2021	37
	1 July 2021	38
	1 January 2022	38
	1 July 2022	35
	23 December 2022	35
	26 June 2023	34
	28 September 2023	34

**2.3 Taxi and Private Hire Licences**

On **26 June 2023**, there were:

62 hackney carriage vehicles and 164 hackney carriage/private drivers  
432 private hire vehicles and 381 private hire drivers  
77 private hire operators

On **28 September 2023**, East Suffolk Council licensed:

62 hackney carriage vehicles and 166 hackney carriage/private drivers  
427 private hire vehicles and 389 private hire drivers  
76 private hire operators

Since the last Licensing Committee in April 2023, the taxi and private hire licence activity is as follows:

July to September 2023

<u>Type of Licence</u>	<u>Renewed</u>	<u>Did not renew</u>	<u>New</u>	<u>Change of Veh</u>
Private Hire Vehicle	73	17	15	18
Hackney Carriage	13	4	3	3
Private Hire Driver	12	5	17	n/a
Hackney Carriage Driver	4	4	6	n/a
Private Hire Operator	1	1	1	n/a
Rickshaws & Horse drawn	0	1	0	0

There are currently 55 new applications for drivers in progress.

**Taxi and Private Hire Licence Comparisons**

Date	HC/PH Drivers	PH Drivers	HC Vehicles	PH Vehicles	PH Operators
1 January 2020	237	352	136	349	72
1 July 2020	223	341	108	301	75

	1 January 2021	203	315	95	289	75
	1 July 2021	197	301	101	295	79
	1 January 2022	194	321	73	350	81
	1 July 2022	178	325	70	367	80
	23 December 2022	171	339	65	391	76
	26 June 2023	164	381	62	432	77
	28 September 2023	166	389	62	427	76

2.4

There have been 3 Sub-Committee hearings regarding a taxi/private hire licence during the period July to September 2023.

### 3 How to address current situation

3.1

Not applicable. This is an update report for noting.

### 4 Reason/s for recommendation

4.1

To keep Licensing Committee members updated as to the work of the Licensing Sub-Committee and Licensing Services.

## Appendices

### Appendices:

None.

### Background reference papers:

None.