

## APPENDIX 1

### Statutory Guidance for Licensing Authorities

#### Taxi and Private Hire Vehicle Licensing Standards July 2020

Issued under section 177 Policing and Crime Act 2017 with the object of protecting children and vulnerable individuals who are 18 or over from harm

<b>Section</b>	<b>Guidance category</b>	<b>Comment</b>	<b>Representations</b>
2	<b>Consideration of the Statutory Taxi and Private Hire Vehicle Standards</b>		
2.1 to 2.4		Focuses on the Government’s Modern Crime Prevention Strategy & in particular to protect children and young people from the risk of child sexual abuse and exploitation (CSAE)	The focus of the statutory document is understandable on a national level. The Council is fortunate that there is no evidence that the extremes of behaviour in the cited reports has occurred in Halton. The Council is in regular contact with the police and other agencies to establish and deal with any link between the taxi trade and crime and/or abuse.
2.5 to 2.7		Status of the document & need to fully consider it.	The Council is fully aware of section 177 Policing and Crime Act 2017 and the meaning of “must have regard to”. This document demonstrates the rigorous consideration of the statutory document.
2.8		In the interests of transparency the Council should publish its consideration	The statutory document will be considered both by the Regulatory Committee and the Executive Board – and relevant documents will be placed on the Council’s website.

3	<b>Administering the Licensing Regime</b>		
	<b>Licensing policies</b>		
3.1		Recommends having a single cohesive policy document.	Agreed. This will be brought in by collating existing separate policies. We will maintain a distinction between guidance, conditions, pre-conditions and policies proper.
3.2 to 3.4		Overriding objectives	Noted. This has always been the Council's overriding objective – so no change needed.
3.5		Review policies every 5 years but consider interim reviews	This can be built in but historically, ad hoc reviews have been much more frequent
	<b>Duration of licences</b>		
3.6 & 3.7			The Council complies with these duration provisions – which really only reflect the legislation.
	<b>Whistleblowing</b>		
3.8 to 3.11		Linked in with safeguarding awareness	The Council's whistleblowing policy is set out in the Constitution (Chapter 5) and is fully compliant. Although linked in the statutory document, whistleblowing and safeguarding are distinct topics. The Licensing staff have regular discussions on safeguarding and members have received presentations on the topic.
	<b>Consultation at local level</b>		
3.12 & 3.13		Emphasises a range of consultees and neighbouring authorities	<ol style="list-style-type: none"> <li>1. The range is too wide for available resources</li> <li>2. The Council already consult neighbouring authorities (both within the Mersey region as well as "old" Cheshire.</li> <li>3. The Council's primary consultation is via its Taxi Consultative Group.</li> </ol>

	<b>Changing the licensing policy requirements</b>		
3.14		Changes should follow a review – have a pragmatic approach	We disagree with this sequential approach. When changing policies the Council has built in the need or otherwise for “grandfather” rights and built them into the policy changes. This gives a full picture at the outset.
3.15		Consider cases on their merits but depart from policy only if exceptional, clear and compelling reasons.	The Council has always adopted this approach. Some policies may be “absolute” but some need to be approached on an individual basis. Nevertheless, departure from policy is seen as exceptional and full reasons for deviating from policy are given – otherwise, a “policy” has no meaning.
4	<b>Gathering and Sharing Information</b>		
4.1		The Council should make use of the full range of information available to it.	This has always been the Council’s approach.
	<b>The Disclosure and Barring Service</b>		
4.2 to 4.4			<b>This only contains generic information which is already adhered to. Note that section 4.3 cross-references with the DBS Annex.</b>
	<b>The Disclosure and Barring Service Update Service</b>		
4.5 to 4.8		This allows those with a standard or enhanced DBS to keep them up	Currently only a small proportion of the licensed trade have subscribed to the DBS update system. This is something that is going to be discussed in

		to date and allows nominees to check the status of the certificate	further detail with the trade and the Regulatory Committee.
	<b>Common Law Police Disclosure</b>		
4.9 to 4.11		In place since March 2015. The Council should maintain close links with the police to ensure effective information sharing	The Council does maintain close links with the Police and welcomes any disclosure made by the police to the Council. The Council recognises the resource limitations of the Police which can mean that personnel and information may not always be shared with the Council.
	<b>Licensee self-reporting</b>		
4.12 & 4.13		Now includes arrest & release as well as charge or conviction. Failure to disclose questions honesty	These sections largely reflect existing policies. However, the new provisions relating to arrest and release can be added to existing policies.
	<b>Referrals to the DBS and the Police</b>		
4.14 to 4.16		Where an decision is taken to refuse or revoke a licence as an individual is thought to present a risk of harm to a child or vulnerable adult should be referred to the DBS	The Council already adheres to this requirement as it is required under current legislation.
	<b>Working with the Police</b>		
4.17 to 4.19		Building an effective working relationship with the Police	The Council has a good working relationship with the Police who attend the Taxi Consultative Group meetings when they are able and also provide intelligence on individuals. This practice is 'two way' and is mutually beneficial. This has been in place for some time.

	<b>Sharing licensing information with other licensing authorities</b>		
4.20 to 4.25		Applicants should be required to disclose if they hold or previously held a licence with another authority or if the licence has been revoked or suspended by any other Licensing Authority	There is a specific question on the application form dealing with this matter and the applicant signs to say if a false statement is made or information omitted it may be a criminal offence. If a previous licence was suspended or revoked checks are made with that authority to gain further information. The national register (NR3) was looked into when it was being originally set up. However, there were significant problems with the system and it has not been used by the Council. Now that it has had time to 'bed in' it will be looked at it again to see if has become a more useable system.
	<b>Multi-agency Safeguarding Hub (MASH)</b>		
4.26 to 4.28			This matter will be looked into shortly.
	<b>Complaints against licensees</b>		
4.29 to 4.33		Licensing Authorities should have a robust system for recording complaints including analysing trends across all licensees as well as complaints against individual licensees.	The Licensing section has sourced and now use its own software for Taxi Licensing complaints which allows for the better management of complaints. A customer complaint form is available on the Council's website. The Council is probably in the minority of local authorities in that customers can contact the licensing staff directly and this includes by e mail, direct telephone numbers and a public counter.

	<b>Oversees convictions</b>		
4.34 to 4.36		This is largely simply declaratory of the current system.	This largely reflects existing policy. However, the Council can add the reference to taking independent legal advice set out in section 4.36.
5	<b>Decision Making</b>		
	<b>Administration of the licensing framework</b>		
5.1 & 5.2		Stresses that a policy is only effective if administered properly and that the licensing function is properly resourced.	This is agreed. The Council's record demonstrates that the policies have been effectively administered. The taxi licensing system is administered by a very small team who deal with a number of other (non taxi related) forms of licences, permits etc. Adequate resourcing is kept under constant review but the realities of local authority financing must also be balanced with the needs of the service. The taxi trade pays for most of the costs of the taxi licensing system and the financial burden on the trade is always taken into account.
	<b>Training decision makers</b>		
5.3 to 5.5		Training recommendations are considered here together with a note on prejudicial interests.	See also comments to section 9.1. The Council is fully compliant with these matters. All hearings stress the need to avoid prejudice and prevent members taking part if they have any relevant interests or could be accused of bias.
	<b>The regulatory structure</b>		
5.6 to 5.11		Deals with frequency of meetings, delegation to officers, bias and procedures for being able to revoke matters immediately.	The Council has a time-tabled schedule of meetings but the Regulatory Committee often meets outside of this schedule to deal with matters as and when they arise. <b>The Council's Constitution is being</b>

			discussed to review the scheme of delegations to make the process more efficient and make better use of member and officers time.
	<b>Fit and proper test</b>		
5.12 to 5.14		These sections simply provide a short summary of the test.	These sections are declaratory only and reflect existing practice and procedure. No changes are required.
	<b>Criminal convictions and rehabilitation</b>		
5.15 to 5.17		Must take each case on its own merits	This goes without saying. It has always been a fundamental element of hearings. The Assessment of Convictions statements in the statutory document will be adopted in full (just as the equivalent statements in the 2019 draft). As with all policies the Council will review this further in due course to ensure that it meets the need of both the Halton licensed area and the Liverpool City Region.
6	<b>Driver Licensing</b>		
	<b>Criminality checks for drivers</b>		
6.1 to 6.4		Licensing Authorities are entitled to request an enhanced criminal record certificate with checks of the barred lists from the DBS for all driver Licence holders	The Council has adhered to these requirements for some considerable time. The advice that DBS checks should routinely be checked every 6 months will be reviewed
	<b>Safeguarding awareness</b>		
6.5 to 6.7		The role taxi and private hire vehicle drivers can play in spotting and reporting the abuse,	Safeguarding awareness information has been provided to all new applicants for some time. This area is being constantly reviewed.

		exploitation or neglect of children and vulnerable adults.	
	<b>'County lines' exploitation</b>		
6.8 to 6.13		Safeguarding awareness	Relevant Home Office material provided to the Council is distributed to the trade. It is being considered whether giving additional information to drivers (for example urgent contact details and telephone numbers) would assist with this topic.
	<b>Language proficiency</b>		
6.4 & 6.5		These sections stress the importance of language proficiency	These sections reflect existing policies in Halton.
7	<b>Vehicle Licensing</b>		
7.1		Proprietors should have no links to serious criminal activity	At present the legislation has no fit and proper test for proprietors. It is extremely doubtful as to whether this element of the statutory document is enforceable.
	<b>Criminality checks for vehicle proprietors</b>		
7.2 to 7.6		These sections attempt to draw a distinction between proprietors and drivers in terms of the recommended criminality checks.	At present the legislation has no fit and proper test for vehicle proprietors. The Council undertakes a standard DBS check every three years for vehicle proprietors who do not already hold a drivers licence with Halton. Unfortunately, the statutory document provides no additional guidance on the legality of undertaking proprietor DBS checks.
	<b>In-vehicle visual and audio recording - CCTV</b>		
7.7 to 7.13		These sections make a number of statements regarding the use of	See comments to the CCTV Guidance Annex below. The case for introducing mandatory CCTV in



		CCTV and have to be read in conjunction with the CCTV Guidance Annex	Halton has not been made out. It is surprising that the statutory document makes no comment on the proportionality of such a policy despite the costs involved and no data is supplied to influence any change of policy in Halton.
	<b>Stretched Limousines</b>		
7.14 & 7.15		These sections make a distinction between 'small' and 'large' stretched limousines	This authority will consider any application for a stretched limousine. In the guidance it states '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' – This statement is rejected in its entirety. It is not in the public interest for safety reasons to licence a vehicle where a seatbelt is not fitted.
8	<b>Private Hire Vehicle Operator Licensing</b>		
8.1		Private Hire Operators do not have direct contact with passengers. However, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed.	The reference to links to serious criminal activity in this section reflects existing legislation.
	<b>Criminality checks for private hire vehicle operators</b>		
8.2 to 8.6		Licensing Authorities should request a basic disclosure certificate for private hire vehicle operators	The Council currently undertakes a Standard DBS check every three years. However, the logistics of undertaking annual checks will be considered. The whole of the current PHO conditions/policies will be

			reviewed in due course and will take into consideration what is referred to in this document.
	<b>Booking and dispatch staff</b>		
8.7 to 8.12		As a condition of granting an operator licence there should be a register of all staff that will take bookings or dispatch vehicles	This is brand new guidance from the Department for Transport which has far reaching consequences. The Council will fully review this. However, this element of the guidance may be outside the licensing regime.
	<b>Record keeping</b>		
8.13 to 8.15		Minimum requirements for Private Hire Operators to record for each booking	These requirements have more or less been a feature of the Council's licensing system since the introduction of private hire licensing in 1976. It is regrettable that the guidance does not take into account modern technology such as internet booking and apps. Consequently, there is still a need to review this topic at local, regional and national level.
	<b>Use of passenger carrying vehicles (PCV) licensed drivers</b>		
8.16 & 8.17		Drivers who hold a PCV Licence or PSV licence should not be permitted without the informed consent of the booker.	The recommended condition will be put forward for inclusion within the Council's conditions.
9	<b>Enforcing the Licensing Regime</b>		
9.1		Ensure full range of information available and have suitably trained decision makers	The Council has always done this. The Regulatory Committee has received training on all aspects of its jurisdiction and will continue to do so both

			formally and informally. Officers also receive regular training on the same basis.
	<b>Joint authorisation of enforcement officers</b>		
9.2		Joint authorisations so that enforcement action can be taken against drivers from outside of an area.	The Council has tried to do this over many years but with little enthusiasm from other authorities. It is in regular dialogue with other authorities to make progress on this topic. However, current proposals in the Merseyside area have focussed on assisting Liverpool City Council. This Council has one taxi enforcement officer and joint exercises are undertaken as an when possible.
	<b>Setting expectations and monitoring</b>		
9.3 & 9.4		Making drivers aware of policies and points based systems together with making the public aware of how to make complaints.	The Council has always communicated policies and complaints procedures. Points systems have been tried but found to have little or no value.
	<b>Suspension and revocation of driver licences</b>		
9.5 to 9.10		Section 61 Local Government (Miscellaneous Provisions ) Act 1976 referred to together with comments on decision making.	This part of the statutory document simply restates the relevant legislation and procedures. The Council is fully aware of these matters and has correctly applied them for many years.
	<b>Annex – Assessment of Previous Convictions</b>		The Regulatory Committee adopted the draft Annex in 2019 on an interim basis. This Annex will be formally adopted as the Council’s approach to previous convictions – subject, of course, to the requirement to treat each case on its merits as set

			out at paragraph 3.15 of the statutory document. In addition the provisions of sections 2.49 and 2.50 of the statutory document should be attached to the Annex and reported to Committee when convictions are being considered.
	<b>Annex – DBS Information</b>		This Annex is purely for information. It presents in table format the information contained in the various forms of DBS check. No action required or recommended. This Annex cross-references with section 4.3 above.
	<b>Annex – CCTV Guidance</b>		The text at sections 7.7 to 7.13 of the statutory document are relevant to this Annex. This Annex is not directly relevant to the Council as licensing authority because the use of CCTV is not mandatory in Halton. The making of a mandatory policy has been considered on a number of occasions and has been considered to be disproportionate and an unjustified financial burden on the taxi trade. Nevertheless, the Council has encouraged the trade to use CCTV in its own interests and when grants were available has funded the provision of CCTV. Although not strictly about licensing, the Council will incorporate in its new guidance references to data protection for the benefit of drivers, operators and proprietors. Conditions already exist regarding the use of CCTV where it is installed in vehicles.

	<b>Annex – Staying Safe: Guidance for Passengers</b>		<p>The Council's guidance has been available on the Council's website for a number of years. As part of the Council's review of its documentation (as recommended in the statutory document) we can put out a specific sheet reflecting this Annex. This will be tailored for Halton. For example, the Council has no taxi marshals – which has been discussed extensively – and these are rare outside of the larger cities. This Annex also reflects a new initiative regarding the use of local drivers when booking taxis and private hire vehicles.</p>
--	--	--	--