

Report to Licensing Committee

23 September 2021

Subject:	DfT Statutory Taxi and Private Hire Vehicle Standards
Director:	Interim Director – Borough Economy Nicholas Austin
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1 Recommendations

- 1.1 That Licensing Committee receive the results of the consultation on the Statutory Taxi and Private Hire Vehicle Standards as detailed in Appendix 2.
- 1.2 That Licensing Committee, taking account of the results of the consultation consider approving adoption of the standards identified in Appendix 3 in principle.
- 1.3 That a further report is submitted to the Licensing Committee with the amendments required to the Sandwell Private Hire and Hackney Carriage Licensing Policy and an implementation plan for the new standards to be included in the Policy.


2 Reasons for Recommendations

- 2.1 On 21 July 2020, the Secretary of State for Transport issued new Statutory Taxi and Private Hire Vehicle Standards to licensing authorities Appendix 1. They are designed to improve consistency in the licensing system and reducing the risk of harm posed to children and vulnerable passengers.



- 2.2 Licensing authorities are under a legal duty under Section 177 (1) of the Police and Crime Act 2017, to have regard to the Statutory Standards which means they should be rigorously considered in formulating policy.
- 2.3 The Statutory Guidance is introduced to protect children (under 18) and vulnerable people as defined by Section 42 of the Care Act 2014. But the guidance goes on to state that all passengers will benefit therefore the standards should be implemented unless there is a good reason not to do so.
- 2.4 It is recognised that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, however it should be noted that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice.
- 2.5 On 9 December 2020 Cabinet approved a consultation be undertaken on the Statutory Taxi and Private Hire Vehicle Standards and the changes that would be required to Sandwell's Private Hire and Hackney Carriage Licensing policy should these be adopted (Decision 118/20).
- 2.6 The consultation has been undertaken on the standards that are not currently included in our existing Private Hire and Hackney Carriage Licensing policy. Licensing Committee are now required to consider the outcome of this consultation and determine whether any of the statutory standards that are not already met within Sandwell's current policy should be adopted.
- 2.7 The adoption of any additional standards will require amendments to be made to the current Private Hire and Hackney Carriage Licensing Policy. A further report will be submitted to committee with policy amendments and an implementation plan for any new standards that are to be adopted.

3 How does this deliver objectives of the Corporate Plan?

	Strong resilient communities - The Statutory Taxi and Private Hire Standards are aimed at safeguarding children and vulnerable adults. The Standards set out a range of robust measures to protect taxi and private hire passengers.
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4 Context and Key Issues

- 4.1 The Licensing Committee is responsible for exercising the powers and duties of the Council with regard to licensing matters under relevant legislation set out in this report.
- 4.2 Licensing authorities are under a legal duty under Section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards which means they should be rigorously considered in formulating policy. There is an expectation from the Department for Transport that these standards will be implemented unless there is a compelling local reason not to.
- 4.3 The current Sandwell Private Hire and Hackney Carriage Licensing Policy was first approved and adopted on 1 October 2017. Following a review was later updated with amendments adopted with effect from 1 August 2018. The new Statutory Taxi and Private Hire Vehicle Standards issued by the Department for Transport require the Council, as the Licensing Authority, to have regard to this document and the Council's own Policy when making decisions on applications for all types of licences.
- 4.4 Whilst the Council's Private Hire and Hackney Carriage Licensing Policy is the guiding document referred to by Committee and officers with delegated authority, in considering the guidance the local authority will be mindful that each case must be considered on its individual merits and, where the circumstances demand, the Committee or officer with delegated authority may depart from the Guidelines in this policy. In such circumstance's reasons will be given for departure and recorded as part of the formal record.
- 4.5 The Standards state that in the interest of transparency, all licensing authorities should publish their consideration of the measures contained in the Statutory Taxi and Private Hire Vehicle Standards, and the policies and a delivery plan that stems from these.
- 4.6 A twelve-week consultation was undertaken between 21 December 2020 and 12 March 2021. Due to COVID-19, the consultation was carried out remotely by means of a questionnaire which was published on the Sandwell Council website. The consultation was promoted through the



Council website, in the local press, on the Council's social media accounts and was sent directly to local key interested organisations such as local disability groups, transport organisations, local women's groups, domestic abuse groups, local traders and the Sandwell Safeguarding Adults Board.

4.7 The consultation questions sought responses in favour or against the adoption of principles as outlined in the Statutory guidance where the standard was new or above the current Policy position as reflected in the Private Hire and Hackney Carriage Licensing Policy Handbook 2018.

4.8 A total of 135 responses were received, and the breakdown of respondents is provided in Table 1 below.

Name of Group	Yes
Statutory Organisations	12
Charity and Other Organisations/Groups	12
Licensed Drivers and Operators	42
Residents/vehicle users	62
School and Parents	7
Total	135

Table 1. Breakdown of consultation respondents

4.8 A full analysis of the outcome from the consultation is provided in appendix 2. Overall the consultations responses provided support for the adoption of the standards, with views that these will improve public safety.

4.9 The areas of the Private Hire and Hackney Carriage Policy that will be affected by the adoption of the Statutory Standards are as follows:

- Administration of the Licensing Regime and this includes, the policy, duration of licences and whistleblowing
- Gathering and Sharing Information including the DBS service and levels and frequencies of checks, subscribing to and updating of the NR3 Register and sharing information with other agencies
- Decision Making including training for Councillors, fit and proper test and convictions and rehabilitation periods
- Driver Licensing including safeguarding and exploitation, criminality checks and language proficiency
- Vehicle licensing including criminality checks for vehicle providers and the use of CCTV in licensed vehicles



- Private Hire Vehicle Operator Licensing including criminality checks for operators and booking and dispatch staff, record keeping and policies on employing ex-offenders
- Enforcing the licensing regime including authorisation of enforcement officers from other licensing authorities and suspension and revocation of driver licences.
- Advice and guidance for passengers on staying safe.

The Private Hire and Hackney Carriage Policy wording which will be affected and require change due to adoption of the Statutory Standards is provided in greater detail in Appendix 3.

4.10 Whilst all the consultation questions received a majority response in favour of adoption of the principles as outlined in Statutory guidance. Some questions received comments which highlighted concerns or points which respondents felt required further consideration. Those comments can be seen in Appendix 2.

4.11 The key themes of the comments raised include:

- Additional costs which may faced by the trade as a result of adoption of the principles, specifically around changes relating to DBS and CCTV.
- Concerns about fake documentation to evidence criminal records from countries where an applicant has spent 3 or more consecutive months outside of the UK. And that the time period should be greater than 3 months before this documentation is required.
- The type of language proficiency test that applicants would be required to undertake being relevant to the job type.
- That a language proficiency test for applicants was not necessary and could result in a shortage of drivers.
- For principles that relate to convictions, consideration should be given to the individuals circumstances, as people make mistakes or there may be mitigating circumstances which should be considered.
- That advisory information received from DBS should also be considered.
- That the Council should have an approved random drug testing approach for licenced drivers.



- 4.12 Some of the standards consulted upon specifically relating to changes to the convictions policy would require some minor wording amendments. However, it should be noted that where those convictions reflected in the current Private Hire and Hackney Carriage Licensing Policy Handbook 2018 already exceed the timescales proposed within the Statutory guidance, adoption of these principles is proposed on the basis that those higher timescales in the current policy are maintained.
- 4.13 The standards propose that Local Authorities consider if there is a local need for the installation of CCTV in licensed vehicles with any costs of installing cameras to be at the driver's expense. Whilst acknowledging the role CCTV can have in public safety the Information Commissioners Office notes that licensing authorities need to balance their responsibilities to protect its drivers and the public with the privacy rights of those individuals.

68% of the consultation respondents were in favour of adopting this principle. Considering this point 'in the round' and factoring in that crimes relating to taxis and licensed drivers have not been identified as a significant issue locally, it is considered that mandatory CCTV systems in vehicles would not be a proportionate response at this time. It is therefore proposed that Sandwell maintains the current policy position that CCTV installation is voluntary.

- 4.14 The response to the adoption of National Anti-Fraud Network, NR3 national register of taxi and private hire licence refusals and revocations was majority in favour of adopting this principle. The principle did not attract any comments of concern or note, only comments stating the benefits for joint working and public safety. It is therefore proposed that Sandwell adopts this principle as outlined in the Statutory guidance.

Adoption of this principle would require a National Register of Hackney Carriage and Private Hire Licence revocations and refusals policy. This document would be presented at a future Committee meeting for consideration.

5 Alternative Options

- 5.1 There are no alternative options given for consideration. Licensing authorities have a legal duty under Section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards.



6 Implications

Resources:	There are no direct budget implications from this report. If approved the further work on the policy update and implementation will be undertaken by the taxi licensing team.
Legal and Governance:	<p>Licensing Committee is responsible for the exercising of the powers and duties of the Council, i.e. those matters that are not the responsibility of the Executive/Cabinet, with regards to Taxi Licensing matters under the Taxi and Private Hire Vehicle (PHV) legislation which is primarily concentrated in the Town Police Clauses Act 1847 (the 1847 Act) and the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act). 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 ('licensing authorities').</p> <p>The primary statute introducing the guidance, Section 177 of the Policing and Crime Act 2017 states "The Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised to protect children and vulnerable individuals who are 18 or over from harm".</p> <p>Under section 177 (1) of the Policing and Crime Act 2017 sets out the framework of policies that, under section 177(4), licensing authorities "must have regard" to when exercising their functions.</p> <p>Licensing authorities are under a legal duty under Section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards.</p> <p>The membership of the Sub Committee is reviewed each year following the appointment of members to the Licensing Committee at the Annual Council Meeting.</p>



	The Licensing Committee has already delegated the majority of its licensing functions to the Sub Committee and/or Officers.
Risk:	<p>A risk register has been completed with no significant risks identified. Each risk has identified measures identified to manage the risk.</p> <p>The activity undertaken by Licensing Committee seeks to reduce instances of crime and disorder that may impact on residents and visitors of the Sandwell borough.</p>
Equality:	An initial equality screening has been undertaken and no adverse impact on protected groups has been identified.
Health and Wellbeing:	There are no direct health and wellbeing implications arising from this report.
Social Value	There are no direct social value implications arising from this report.

7. Appendices

Appendix 1 - Statutory Taxi & Private Hire Vehicle Standards
Appendix 2 - Consultation response analysis
Appendix 3 – Current Policy wording affected by adoption of the Statutory Standards

8. Background Papers

Risk Register - Consultation

