

# Report to Licensing Committee

**Thursday 24 February 2022**

<b>Subject:</b>	Department for Transport Statutory Taxi and Private Hire Vehicle Standards
<b>Director:</b>	Director of Borough Economy Ms Alice Davey
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## 1 Recommendations


- 1.1 That the Licensing Committee consider the proposed changes to the Draft Sandwell Private Hire and Hackney Carriage Licensing Policy as set out in Appendices 1 and 2 and recommend adoption of those changes in line with the DfT Statutory Taxi and Private Hire Vehicle Standards.
- 1.2 That the Licensing Committee consider the proposed changes to the conditions of license as detailed in Appendix 3 and recommend adoption of the changes in line with the changes to Draft Sandwell Private Hire and Hackney Carriage Licensing Policy.
- 1.3 That the Licensing Committee consider the proposed implementation plan at Appendix 4 outlining the approach to be taken in implementing the changes resulting from adoption of the Draft Sandwell Private Hire and Hackney Carriage Licensing Policy.
- 1.4 That the Licensing Committee note that the standard relating to the mandate to install CCTV in all licenced vehicles as a mandatory policy requirement is not adopted at this time, and that the current policy position of voluntary installation is maintained.








## 2 Reasons for Recommendations

- 2.1 The DfT Statutory Taxi and Private Hire Vehicle Standards were introduced to protect children (under 18) and vulnerable people as defined by Section 42 of the Care Act 2014. The guidance goes on to state that all passengers will benefit and therefore the standards should be implemented unless there is a good reason not to do so. 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.
- 2.2 Within the standards 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.
- 2.3 A consultation on the adoption of the standards was undertaken between December 2020 and March 2021. At a meeting of the Licensing Committee on 23 September 2021, the Committee considered the implementation of the proposed changes and were in support of implementation subject to approval of policy wording, with the exception of CCTV being a mandatory requirement in licensed vehicles. It was determined that there was no proven local need, however should such a proven need be identified in the future, that further consideration would be given to such a requirement.
- 2.4 The Licensing Committee recognised that substantial changes would be required to the current Sandwell Private Hire and Hackney Carriage Licensing Policy and asked that a further report be brought back to the Committee to consider those changes in detail, together with an implementation plan for the changes to come into effect.
- 2.5 Following Licensing Committees consideration, all policy changes will be presented to cabinet on 13<sup>th</sup> April 2022.

## 3 How does this deliver objectives of the Corporate Plan?

	Best start in life for children and young people
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	People live well and age well
	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.
	Quality homes in thriving neighbourhoods
	A strong and inclusive economy
	A connected and accessible Sandwell Confidence for residents in using the vehicles and drivers licensed by Sandwell Council to travel both inside and outside of the Borough safely.

## 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 The Statutory Standards are looking to ensure that there are consistent standards in all licensing authorities and there is an expectation from the Department of Transport that these standards will be implemented unless there is a compelling local reason not to do so.
- 4.3 135 responses were received during the consultation period with the majority of those responding being in favour of the proposed changes. These responses were considered by the Licensing Committee at its meeting on 23<sup>rd</sup> September 2021 and it was agreed to adopt the statutory standards where they were more rigorous than the current private hire and hackney carriage licensing policy, with the exception of mandatory CCTV in vehicles.
- 4.4 Whilst a number of consultation respondents were in favour of CCTV being installed in all licensed vehicles, there was no local evidence to support this need. It was therefore agreed not to adopt this standard,



however it is proposed that if evidence is identified in the future this standard is to be reconsidered.

- 4.5 Some of the proposed changes will affect section 7 Private Hire and Hackney Carriage Determination of Matters Policy Guidelines. The proposed approach for implementation of the changes for both new and existing licence holders is detailed in Appendix 4.
- 4.6 Each of the changes to the Policy Handbook at Appendix 1, as a result of adoption of the national standards will have a lead time informed by the necessary steps identified to achieve implementation. The proposed implementation plan at Appendix 4 outlines the approach and associated timescale envisaged for each of the changes.
- 4.7 For the Council to implement use of the NR3 national database it is required to have a data processing policy and to sign a user acceptance agreement. The user acceptance agreement for the NR3 register will need to be approved by the Council's Monitoring Officer. The NR3 data processing policy will be taken to Cabinet on 13<sup>th</sup> April 2022 along with the draft Sandwell Private Hire and Hackney Carriage Licensing Policy at Appendix 1 for approval. The detail regarding this change including the proposed data retention period for upload to NR3 is detailed in Appendix 4. The proposed data retention period for upload has been arrived at in consultation with the Councils Information Governance Team.

## 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

<b>Resources:</b>	The changes, if implemented, should not impact on staffing levels, costs or have any land or building implications.
<b>Legal and Governance:</b>	All proposals and recommendations contained within the report comply with legislation as set out within the Local Government (Miscellaneous Provisions) Act 1976.



Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

- (1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence: Provided that a district council shall not grant a licence –
- (a) Unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
  - (b) To any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

(1) A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.

(2) Without prejudice to the generality of the foregoing subsection-

- (a) a district council may require an applicant for a driver's licence in respect of a hackney carriage or private hire vehicle –
- (i) to produce a certificate signed by a registered medical practitioner to the effect that he is physically fit to be the driver of a hackney carriage or a private hire vehicle; and
  - (ii) whether or not such a certificate has been produced, to submit to examination by a registered medical practitioner selected by the district council as to his physical fitness to be



the driver of a hackney carriage or private hire vehicle;

(3) If any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section, he shall be guilty of an offence.

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

(1) Notwithstanding anything in the Act of 1847 a district council shall not grant a licence to drive a hackney carriage-

(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

(1) Notwithstanding anything in the Act of 1847 or in this Part of the Act, a district council may suspend or revoke or (on application therefor under Section 46 of the Act of 1847, or Section 51 of this Act, as the case may be), refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:-

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

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

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

(b) Any other reasonable cause.

Section 177 of the Policing and Crime Act 2017 which gives the Secretary of State power to issue guidance to Licensing Authorities in relation to "how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children,



	<p>and vulnerable individuals who are 18 or over, from harm”.</p> <p>Deregulation Act 2015 which made significant alterations to the Local Government (Miscellaneous Provisions) Act 1976. Under these provisions, hackney carriage and driver’s licences are expected to be granted for a period of three years and private hire operators’ licences for a period of 5 years, although shorter periods can be specified by the Licensing Authority.</p> <p>Immigration Act 2016 which introduced a requirement that all hackney carriage and private hire drivers, together with private hire operators, must demonstrate that they have the right to work and the right to remain in the UK.</p>
<b>Risk:</b>	<p>In the event that the Council decided not to adopt all or part of the Statutory Taxi and Private Hire Vehicle Standards, the reasons for the decision would have to be published on the Council’s website of how it reached the decision.</p> <p>A decision not to adopt or maintain a position which already exceeds the standards would result in lowering of standards of public safety. The DfT Statutory Taxi and Private Hire Vehicle Standards were introduced to protect children (under 18) and vulnerable people. Therefore, in line with the consultation feedback no alternative options are being proposed.</p>
<b>Equality:</b>	<p>An Equality Impact Assessment has been undertaken. The consultation was on whether or not to adopt in part or as a whole the Statutory Taxi and Private Hire Vehicle Standards. The standards are not particular to any specific group. On this basis, there are no impacts that are specific to any or all protected characteristics.</p>
<b>Health and Wellbeing:</b>	<p>The adoption of the Statutory Taxi and Private Hire Vehicle Standards would protect not only children and vulnerable adults but the general public by raising</p>



	awareness of how to make a complaint, ensuring that drivers have undergone more stringent checks before licences are issued and that those persons employed by operators at the bases have also received appropriate training and the ability to share via a secure website details of persons who have had their licences refused and revoked with other local authorities.
<b>Social Value</b>	Hackney Carriage and Private Hire Licensing provide a service that allows people who wish to drive for a living to gain a licence and seek employment with operators in the Sandwell area. It also gives them the opportunity to set up their own business and offer employment in the Sandwell Borough

## 7. Appendices

Appendix 1 – Current and Proposed Policy if Statutory Standards adopted

Appendix 2 – Private Hire and Hackney Carriage Licensing Policy – The Policy Handbook including proposed statutory standards

Appendix 3 – Amended conditions of licence for all licence types

Appendix 4 – Implementation Plan

## 8. Background Papers

- Private Hire and Hackney Carriage Licensing Policy 1 August 2018
- Statutory Taxi and Private Hire Vehicle Standards
- Summary of all comments
- Guidance document on adopting the NR3 Register issued by the Local Government Association and NAFN Data and Intelligence Services

