

To: Members of the Licensing
Committee

Date: 17 June 2021

Direct Dial: 01824 712568

e-mail: democratic@denbighshire.gov.uk

Dear Councillor

You are invited to attend a meeting of the **LICENSING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 23 JUNE 2021 BY VIDEO CONFERENCE**.

Yours sincerely

G Williams
Head of Legal, HR and Democratic Services

AGENDA

PART 1 - THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING

1 APOLOGIES

2 APPOINTMENT OF CHAIR

To appoint a Chair of the Licensing Committee for the ensuing year.

3 APPOINTMENT OF VICE CHAIR

To appoint a Vice Chair of the Licensing Committee for the ensuing year.

4 DECLARATION OF INTERESTS

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

5 URGENT MATTERS AS AGREED BY THE CHAIR

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

6 MINUTES OF THE LAST MEETING (Pages 9 - 16)

To receive the minutes of the Licensing Committee held on 4 March 2020 (copy enclosed).

7 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AND CONDITIONS (Pages 17 - 88)

To consider a report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) seeking a review of the current Licensing Policy relating to Hackney Carriage (Taxi) and Private Hire Vehicles, Drivers and Operators and approval for formal consultation on a draft statement of Licensing Policy.

8 UPDATE ON ZERO EMISSION VEHICLES WITH THE LICENSED VEHICLE FLEET (Pages 89 - 90)

To consider a report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) updating members on the current position relating to the Welsh Government Green Taxis Pilot Scheme for zero emission vehicles.

9 REVIEW OF STREET TRADING POLICY (Pages 91 - 120)

To consider a report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) updating members on the review of the street trading policy and recommended next steps.

10 LICENSING COMMITTEE FORWARD WORK PROGRAMME

To receive a verbal update from the Public Protection Business Manager.

PART 2 - CONFIDENTIAL ITEM

It is recommended in accordance with Section 100A(4) of the Local Government Act 1972, that the Press and Public be excluded from the meeting during consideration of the following item of business because it is likely that exempt information as defined in paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act would be disclosed.

11 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 551134 (Pages 121 - 138)

To consider a confidential report by the Head of Planning, Public Protection and Countryside Services (copy enclosed) seeking members' determination of an application to drive hackney carriage and private hire vehicles from Applicant No. 551134.

11.00 am

MEMBERSHIP

Councillors

Joan Butterfield
Hugh Irving
Brian Jones
Barry Mellor
Melvyn Mile
Merfyn Parry

Pete Prendergast
Arwel Roberts
Peter Scott
Rhys Thomas
Huw Williams

COPIES TO:

All Councillors for information
Press and Libraries
Town and Community Councils

This page is intentionally left blank

LICENSING COMMITTEE PROCEDURE FOR THE DETERMINATION OF HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE APPLICATIONS AND REVIEWS OF EXISTING LICENSED DRIVERS

STEP	DESCRIPTION
1.	The Chair to welcome and introduce the applicant/licence holder to all parties present.
2.	Solicitor to ask the applicant/licence holder to confirm that he/she has received the report and the Committee procedures. If applicant confirms same, move onto step 4.
3.	If it should occur that the applicant/licence holder states that the report has not been received, then such matter will be addressed at this stage. Members may wish to consider adjourning the matter, for a short period, in order for the applicant/licence holder to read the report.
4.	Head of Planning and Public Protection (or representative) briefly introduces the application/review
5.	The applicant/licence holder is requested to present his/her case The applicant/licence holder can call any witnesses he/she chooses in support of the application, for which advance notice should have been given to the Licensing Officers.
6.	Committee Members can question the applicant/licence holder and or his witnesses
7.	Technical officers are invited to present any findings (Licensing/Community Enforcement, First Contact Team (Social Services), School Transport.)
8.	The Committee Members followed by the applicant/licence holder can ask questions of the technical officers
9.	The applicant/licence holder will be invited to make a final statement, if they so wish
10.	The following will be requested to leave the meeting whilst the application/review is discussed by Members – the applicant/licence holder, all third parties, Head of Planning and Public Protection, technical officers NB The only people remaining should be – Committee Members, translator, committee’s legal adviser and the minute taker

11.	The committee members will consider the application/review taking into account the evidence heard
12	Should Committee Members prove it necessary to recommence the asking of questions and recall any party to provide further information or clarification, all persons who have withdrawn from the meeting will be invited to return. After the question(s) have been determined all third parties will be asked to withdraw again for Members to consider all evidence.
13.	When the Members have reached their decision, all parties will be recalled and the applicant/licence holder will be informed of the Members decision by the Chairman.
14.	The Chair will inform the applicant/licence holder of the decision reached. This will include any specific conditions or penalties which may have been imposed. If necessary the Council's Solicitor to provide further clarification of the decision and its implications to the applicant/licence holder.
15.	If the decision is to refuse or there is a decision to suspend or revoke, the Council's Solicitor to inform the applicant/licence holder of the right of appeal to the Magistrates' Court (the decision letter will also include these details).
16.	For an existing licensed driver (issued by Denbighshire), and the decision involves a resolution by the Committee to suspend or revoke the existing licence, Members may do so under either: <ul style="list-style-type: none"> 1. Section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976. 2. Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976. This decision will have IMMEDIATE EFFECT and can only be used when the grounds for suspension/revocation are a public safety matter. <p>The Solicitor will explain to the licence holder the implications of the decision.</p>
17.	The applicant/licence holder will be informed of the decision in writing as soon as practicable.
18.	The applicant/licence holder will be invited to discuss any matter they are unsure of with Licensing Officers after the Committee

LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a *member/co-opted member of
*(*please delete as appropriate)*

Denbighshire County Council

CONFIRM that I have declared a ***personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-

*(*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)**

Signed

Date

*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

This page is intentionally left blank

LICENSING COMMITTEE

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Russell House, Rhyl on Wednesday, 4 March 2020 at 9.30 am.

PRESENT

Councillors Joan Butterfield, Hugh Irving (Chair), Alan James, Brian Jones (Vice-Chair), Melvyn Mile, Merfyn Parry and Peter Scott

ALSO PRESENT

Head of Legal, HR and Democratic Services (GW), Built Environment and Public Protection Manager (GR), Public Protection Business Manager (IM), Licensing Officer (JT), Licensing Enforcement Officer (KB), People Team Leader – Legal Services (NG), Legal Officer Contracts and Procurement (SR) and Committee Administrator (KEJ)

1 APOLOGIES

Councillors Barry Mellor, Arwel Roberts, Rhys Thomas and Huw Williams

2 DECLARATION OF INTERESTS

No declarations of interest had been raised.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

4 MINUTES OF THE LAST MEETING

The minutes of the Licensing Committee held on 4 December 2019 were submitted.

Matters Arising –

Page 10: Item 5 Proposed Changes to Taxi Licensing Fees and Charges – no objections had been received following the necessary consultation and therefore the fees would come into effect 1 April 2020.

Pages 13 and 14, Item 8 Proposed House to House Collection Policy and Item 9 Proposed Street Collection Policy – no representations had been received in response to the formal consultation on the proposed policies and both would come into effect 1 April 2020.

RESOLVED that the minutes of the meeting held on 4 December 2019 be received and confirmed as a correct record.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 12 and 13 of Part 4 of Schedule 12A of the Act.

5 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 541292

A confidential report by the Head of Planning, Public Protection and Countryside Services (previously circulated) was submitted upon –

- (i) a renewal application having been received from Applicant No. 541292 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having referred the renewal application to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) the Applicant having accrued 3 penalty points on his DLVA Driver's Licence for speeding in May 2017 and incurred a financial penalty relating to two offences for driving an overweight vehicle in December 2019, both of which had been declared by the Applicant and confirmed following a routine check;
- (iv) further information concerning the case including the Applicant's explanation of the circumstances relating to the convictions together with his suitability as a licensed driver and character references (attached to the report);
- (v) the Council's policy with regard to the suitability of applicants and reasoning behind the officer recommendation to deviate from that policy and grant the renewal application given the exceptional circumstances in this case, and
- (vi) the Applicant having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Applicant was accompanied by his son and confirmed he had received the report and committee procedures and was happy to proceed.

The Licensing Officer introduced the report and detailed the facts of the case.

The Applicant submitted he was a long standing and experienced taxi driver with no previous concerns and provided assurances with regard to his driving conduct. He also explained the circumstances surrounding the speeding conviction which was soon to be removed from his licence and confirmed he was not carrying a passenger at that time. With regard to the second offence his son explained his fault in miscalculating the weight limit resulting in his father unknowingly driving an overweight vehicle. Assurances were provided that there had been no deliberate intent in that regard and that steps had been taken since then to ensure no future reoccurrence. There being no further questions the Public Protection Business Manager summarised the reasoning behind the officer recommendation to grant the renewal application given the particular circumstances in this case. In his final

statement the Applicant expressed his remorse over the offences and reiterated that they had not been carried out deliberately.

The committee adjourned to consider the application and it was –

RESOLVED that the renewal application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 541292 be granted.

The reasons for the Licensing Committee's decision were as follows –

Members had carefully considered the report and submissions in this case. It was accepted that the Applicant was an experienced licensed driver with a previously clean record and had been open and honest in declaring his motoring offences. The numerous references attesting to the Applicant's good character had also been taken into account. Members had found the Applicant to be credible and genuine in his address to the Committee and accepted the explanation provided regarding the circumstances of the offences and remorse shown. Given those exceptional circumstances members were satisfied that the Applicant was a fit and proper person to hold a licence. Consequently it was decided to deviate from the Council's current policy in relation to vehicle use offences on this occasion and grant the renewal application. In light of the convictions obtained it was considered appropriate that the Applicant be cautioned as to his future conduct.

The Chair conveyed the decision and reasons therefore to the Applicant and cautioned him to be mindful of the rules and regulations in his future conduct.

6 RENEWAL APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES - APPLICANT NO. 543310

A confidential report by the Head of Planning, Public Protection and Countryside Services (previously circulated) was submitted upon –

- (i) a renewal application having been received from Applicant No. 543310 for a licence to drive hackney carriage and private hire vehicles;
- (ii) officers having referred the renewal application to the Licensing Committee for determination given the particular circumstances of the case;
- (iii) the Applicant having accrued 6 penalty points on his DVLA Driver's Licence in August 2019 for using a handheld mobile phone or device whilst driving a motor vehicle which had been declared by the Applicant and confirmed following a routine check as part of the renewal application;
- (iv) further information concerning the case including the Applicant's explanation of the circumstances relating to the motoring conviction together with his suitability as a licensed driver;
- (v) the Council's policy with regard to the suitability of applicants and reasoning behind the officer recommendation to deviate from that policy and grant the renewal application given the exceptional circumstances in this case, and

- (vi) the Applicant having been invited to attend the meeting in support of his renewal application and to answer members' questions thereon.

The Applicant was not in attendance and had not indicated whether he intended to be present. Officers confirmed the relevant papers and notice of the hearing had been served. The Committee considered sufficient information had been provided to determine the application and agreed to proceed in the absence of the Applicant.

The Enforcement Officer introduced the report and detailed the facts of the case. She responded to members' questions and further elaborated upon the particulars relating to the offence and confirmed the Applicant's account had been corroborated by the Police. Members' attention was drawn to the relevant sections of the Council's policy in relation to the use of a mobile phone whilst driving and the unique circumstances of the case together with consideration of the overall character of the Applicant leading to the officer recommendation to grant the renewal application.

The committee adjourned to consider the application and it was –

RESOLVED that the renewal application for a hackney carriage and private hire vehicle driver's licence from Applicant No. 543310 be granted with a formal warning issued as to his conduct.

The reasons for the Licensing Committee's decision were as follows –

Members had carefully considered the particular circumstances of the case as set out in the report together with officers' response to questions thereon. Members noted the Applicant's previously clean record and good character as a licensed driver and his honesty in declaring the conviction at the appropriate time. Members also accepted the Applicant's account of the events which had been corroborated by the Police and found that at the time of the offence he had been experiencing unique circumstances through no fault of his own. Consequently members found the Applicant to be a fit and proper person to hold a licence and given the exceptional circumstances in this case agreed to deviate from the Council's policy with regard to using a handheld mobile phone while driving and grant the renewal application. Members also considered it appropriate to issue a formal warning as to the offence and future conduct. Whilst it was considered that sufficient information had been provided to enable a decision to be made on this occasion, the Committee asked that their disappointment be conveyed directly to the Applicant regarding his non-attendance at the hearing of his application.

At this juncture (10.25 a.m.) the meeting adjourned for a refreshment break.

7 HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS/POLICY

The Licensing Officer submitted a report (previously circulated) proposing a number of amendments to the Hackney Carriage and Private Hire Vehicle Policy and Conditions for formal consultation and approval following its three yearly review.

In December 2016 the Licensing Committee approved the Hackney Carriage and Private Hire Vehicle Policy and Conditions with effect from July 2017. Having reviewed the policy in accordance with requirements a number of amendments had been proposed to reflect both changes in operating procedures (i.e. removal of the penalty points system) and to clarify existing conditions. It was recommended that any changes be subject to formal consultation prior to implementation.

Officers elaborated upon the proposed areas for amendment as follows –

- Signage/Advertising/Livery (Private Hire) – stopping use of magnetic door signs
- Plate Exemption – delegation to officers to deal with exemption applications
- Disciplinary Action – amend and replace references to penalty point scheme
- Penalty Points Scheme – amend and remove reference to penalty point scheme
- Facilities for Wheelchair Users – remove “at the nearside rear passenger door”
- Collisions – amendment to ensure procedure in place for suspended vehicles
- Signage/Advertising/Livery (Hackney Carriage) – removal of requirement for a roof sign or meter for initial vehicle inspection/testing.

The following matters were further discussed –

- Disciplinary Action – it was confirmed that in terms of officer delegations the procedure for suspensions and revocations specified that decisions were to be taken in consultation with the Chair and Vice Chair of the Licensing Committee together with relevant legal officers
- Facilities for Wheelchair Users – it was explained that many new wheelchair accessible vehicles allowed for various points of access and removing the current access restriction would allow for rear access and accommodate those vehicles. It was noted that problems may be caused on taxi ranks due to space in providing for rear access and many such vehicles displayed signage requesting sufficient distance be kept clear for that purpose
- Collisions – Councillor Joan Butterfield was keen to ensure costs incurred by vehicle proprietors were kept to a minimum and asked for a further amendment to specify that in cases where a compliance test was required following a collision, the compliance test may be used as one of the regular compliance tests required. To comply with that request officers agreed to amend the relevant section to read as follows “In the event of a licence being suspended due to the nature of the damage, the proprietor shall, at their own cost, have the vehicle tested **under the requirements of a compliance test** at DCC Fleet Management and Vehicle Maintenance Centre. Following which, they should submit the Compliance Certificate for examination by an authorised officer prior to the licence being reinstated. **If relevant, the proprietor may elect to use this compliance test as one of the annual compliance tests required under section 2.5 / 5.5. Proprietors should note this will introduce a new due date for the next 6 monthly compliance test**”. Councillor Brian Jones queried whether it was appropriate to require all vehicles to be tested at the Fleet Management Centre in Bodelwyddan, particularly given the distance for Llangollen proprietors. Officers explained the reasoning behind the requirement was to ensure that those vehicles incurring significant damage and subsequent repair were properly tested to a consistent standard at an impartial centre. It

was noted that the Licensing Committee had previously agreed to consider moving to in-house compliance testing only and officers were currently reviewing that proposal which would be brought back to a future meeting of the Committee for further consideration

- Signage/Advertising/Livery (Hackney Carriage) – members noted additional costs may be incurred by proprietors given the current requirement and to cater for both purpose built taxis and other vehicles agreed to the following amendment “New to Fleet Carriage Vehicles **may** be presented to DCC Fleet Management and Vehicle Maintenance Centre for initial inspection without a roof sign or meter.”

RESOLVED that –

- (a) *officers be authorised to consult on the proposed amendments to the existing Hackney Carriage and Private Hire Vehicle Policy and Conditions as detailed within the report, subject to minor adjustments proposed by the Committee, and if no objections are received, they will come into effect on 1 June 2020, and*
- (b) *where any objections are received, the Licensing Committee will consider those objections at their next meeting in June 2020 with a view to implementation (with or without modification) on 1 July 2020.*

8 UPDATE ON THE WORK OF THE LICENSING SECTION IN 2019

The Public Protection Business Manager submitted a report (previously circulated) updating members on the work of the Licensing Section during 2019 which focused on both operational and management matters.

The report provided statistical data regarding the number of licences issued, complaints and service requests received covering the main functions – Alcohol and Entertainment; Hackney and Private Hire Licensing; Gambling, Gaming and Lotteries; Street Trading; Charity Collections and Scrap Metal together with other ancillary matters including overall workload results and communications. Management matters included reference to policies, fees, complaints against the service together with future workload considerations. Officers elaborated on various aspects of the report and clarified particular issues in response to members’ questions thereon.

The main areas of debate on functions and management matters focused on –

- **Hackney Carriage and Private Hire Licensing** – two driver applications refused by officers had been successful on appeal to the Magistrates Court following the submission of further evidence not presented at the time of application. Members discussed with officers the cost of defending an appeal and whether there would be merit in introducing a mechanism for particular driver applications (which officers considered would merit refusal or borderline cases where robust arguments could be made for both grant and refusal and may warrant a deviation from the policy) to be brought before Licensing Committee for determination. Such a process would provide a further

opportunity for the applicant to present further evidence to support their application in a timely manner thereby helping to avoid potential court costs for all parties concerned. Members confirmed they had confidence in the delegation of powers afforded to officers for that purpose but agreed there would be merit for any applications which were not clear cut and caused officers some debate being brought back before the Licensing Committee for determination. It was noted that the option of bringing matters back before members was inherent in any delegation to officers and therefore a specific mechanism for that purpose within the policy was not required

- **Charity Collections** – it was confirmed that the number of charitable collections specified within the report included an accumulation of the same charity collecting in different areas of the county, and that charitable collections of clothing from house to house did require licensing with most large charities having a Home Office Exemption Order for that purpose
- **Scrap Metal** – details of the regulations in place covering scrap metal sites and collectors were provided and it was confirmed that any collection of scrap metal needed to be licensed; social media sites such as Facebook were routinely scanned for advertisements relating to scrap metal to ensure compliance
- **Communications** – it was noted that social media was used to post messages and officers agreed to circulate links for Facebook and Twitter to the Licensing and Trading Standards pages for members' information and interest
- **Fees** – in response to questions members were reminded that the Committee had approved the proposed changes to taxi licensing fees and charges at their last meeting in December 2019 and given that no objections had been received during the consultation period they would be effective from 1 April 2020. It was clarified that officers undertook an annual review of all fees and charges which were brought before the Licensing Committee for approval before consultation and formal sign off for the operational aspects by the Head of Service. The fees were set based on the actual costs incurred and a profit could not be made.

In considering future workload there was further debate on the following matters –

- following the introduction of a minimum price for alcohol effective from 2 March 2020 officers would be carrying out inspections in the coming months to ensure compliance. Inspections would be carried out in the first quarter and therefore it would be possible to report back on the level of compliance to members in June
- officers elaborated upon the “Best Bar None” initiative for licensed premises to be introduced in Denbighshire in order to promote good pub ethics and minimum standards – the focus in 2020 would be to raise awareness of the scheme ahead of a formal launch in March 2021
- reference was made to the Welsh Government’s aim of a zero emission bus and taxi/private hire vehicle fleet by 2028 and there was some discussion about the potential role licensing could play in that vision through processes for taxi licensing and potential incentives to encourage licensees locally in that regard. The role and work of the Climate Change Group in the wider environmental context was acknowledged and the potential for a specific Licensing Working Group to focus on helping to meet Welsh Government’s aim was suggested as a possible way forward. The need to ensure services in more rural areas would not be jeopardised or detrimentally affected as a result of any future proposals

was also highlighted. It was agreed that officers report back to the Committee with options on the way forward once further information became available

- it was noted that a training session would be held in September and whilst priority would be for committee members, other members would also be able to attend. Members were encouraged to let officers know of any particular areas they considered beneficial to meet their training needs. Officers were also willing to accommodate requests from members interested in shadowing officers on their duties with prior arrangement
- assurances were provided that grant funding streams that may be available would be explored by officers.

The Chair paid tribute to the work of the Licensing Team, particularly given the heavy workload involved, which was recognised and appreciated by the Committee. Members asked that their thanks be conveyed to the Licensing Team and their appreciation be recorded within the minutes. The Public Protection Business Manager thanked members for their support and agreed to feedback those comments to the Licensing Team.

RESOLVED that, subject to members' comments, the contents of the report be noted.

9 LICENSING COMMITTEE FORWARD WORK PROGRAMME 2020/21

A report was submitted (previously circulated) presenting the Licensing Committee's work programme for 2020/21.

During consideration of the work programme reference was made to the annual review of Fees and Charges and officers clarified that some fees were statutory whilst others were discretionary. A profit could not be made from those discretionary fees which must only cover the costs incurred for administering that particular function. With regard to hackney carriage/private hire vehicle licensing fees a detailed methodology had been devised to allow for a detailed review of those fees and charges in line with relevant licensing processes and it was agreed to include that information as part of the next annual review brought before the Committee in December 2020. Members also noted the planned licensing training session in September and Councillor Joan Butterfield asked for an overview of the types of complaint received by the service together with the complaints process followed in that regard to be made available as part of that training session.

RESOLVED that the proposed forward work programme as detailed in the appendix to the report be approved.

The meeting concluded at 11.55 a.m.

REPORT TO:	Licensing Committee
DATE:	23 rd June 2021
LEAD OFFICER:	Head of Planning, Public Protection & Countryside Services
CONTACT OFFICER:	Senior Licensing Officer licensing@denbighshire.gov.uk 01824 706433
SUBJECT:	Review of Hackney Carriage and Private Hire Licensing Policy and Conditions

1. PURPOSE OF THE REPORT

- 1.1 For Members to consider reviewing the current Hackney Carriage and Private Hire Licensing Policy and Conditions to incorporate the new statutory standards published by the Department for Transport (DfT) along with new recommendations published by the Welsh Government.

2. EXECUTIVE SUMMARY

- 2.1 To seek the views of Members on the DfT statutory standards and the recommendations published by Welsh Government.
- 2.2 To further seek approval to consult with the trade and the wider public on a draft Statement of Licensing Policy to incorporate the DfT statutory standards and the new Welsh Government.

3. BACKGROUND INFORMATION

- 3.1 Denbighshire's current Hackney Carriage and Private Hire Licensing Policy and Conditions has been in place since 2017. With new statutory standards published by the Department for Transport (DfT) along with new recommendations published by the Welsh Government it is proposed that we need to review the current policy to incorporate these new standards and recommendations.
- 3.2 In July 2020 the Department for Transport (DfT) published Statutory Taxi & Private Hire Vehicle Standards with the focus on protecting children and vulnerable adults. The DfT state that following a detailed consultation it's clear there is a consensus that common core minimum standards are

required to better regulate the taxi and private hire vehicle sector. Please refer to Appendix A.

3.3 The DfT standards have effect in Wales even though responsibility for taxi and private hire vehicle policy has been devolved to the Welsh Assembly. However, should the Welsh Government introduce legislation to regulate on these matters, the DfT standards would cease to apply.

3.4 The DfT Statutory Taxi & Private Hire Vehicle Standards state:

"1.3 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 regulate better 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 therefore expects these recommendations to be implemented unless there is a compelling local reason not to.

1.4 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 Police 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.

3.5 Licensing Authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually."

3.5 In March 2021, the Welsh Government published the Harmonisation of Taxi and Private Hire Vehicle Licensing in Wales. This document follows the Welsh Government's white paper 'Improving Public Transport' published in 2018. The aim of the recommendations contained in the document is to provide 'quick fixes' to improve the consistency of licensing standards and increase public safety across Wales. The recommendations form the basis for further development by Welsh Government into national standards. In order to achieve this the Welsh Government strongly recommend that each local authority in Wales

adopt these recommendations (where they are not already in place) on a voluntary basis. Please refer to Appendix B.

3.6 There are 5 reasons outlined by Welsh Government to adopt the recommendations, public safety being the first. The public should be able to expect a licensed driver to be competent, honest, safe and trustworthy. There have been numerous reports in recent years involving child exploitation which have made it clear that weak and ineffective arrangements for taxi licensing in England and Wales left the public at risk; these new recommendations hope to rectify this by improving public safety across Wales. This also includes the safety of vehicles, along with improving the standards set for private hire operators.

3.7 Other reasons for adopting the recommendations include better consistency of standards across Wales, harmonised enforcement, increased accessibility of vehicles in Wales and better standards of customer service.

3.8 **Proposed changes to Licensing Policy and Conditions**

3.8.1 The Department for Transport's Statutory Taxi and Private Hire Vehicle Standards have been considered in the drafting of the Welsh Government's recommendations.

3.8.2 It is proposed that the existing Licensing Policy and conditions becomes one large document encompassing all the other supplementary policies and conditions that relate to taxi and private hire licensing. This will hopefully simplify matters for applicants and licensees as all the necessary documents will be available in one place.

3.8.3 The DfT statutory standards and the Welsh Government's Harmonisation of Taxi and Private Hire Vehicle Licensing recommendations will bring about many changes to our current Licensing Policy. In summary, the main changes are as follows:

3.8.4 Drivers

- Requirement for drivers to join the Disclosure & Barring Service (DBS) Update Service and have a DBS check every 6 months.
- Overseas criminal record check for drivers.
- Adopting the Welsh Government's Driver Code of Conduct.
- Updating the Private Hire Driver Conditions in line with the Welsh Government's Recommendations

3.8.5 Vehicle

- Requirement for vehicle proprietors to have an annual DBS check.
- Overseas criminal record check.
- Adopting the Welsh Government's policy on CCTV and Video Point of Impact Systems (VIPS)/Dash Cams in taxis and private hire vehicles.
- Impose the Welsh Government's recommendations for accessibility conditions on vehicle proprietors of taxis and private hire vehicles.

3.8.6 General

- To commit to reviewing Statement of Licensing Policy every 5 years in accordance with the DfT's Statutory Standards.

4.0 **CONSULTATION**

4.1 It is proposed that a 4 week consultation will take place on a draft Statement of Licensing Policy which incorporates the new Statutory Standards published by the DfT and the recommendations set out by Welsh Government.

4.2 Responses from the consultation will be taken into consideration and the final policy along with any comments received will be put before the Licensing Committee for approval.

5.0 **RECOMMENDATIONS**

5.1 It is recommended that the Committee consider the contents of the report and resolve to:

- a) Approve the review of its current Licensing Policy relating to the Hackney Carriage (Taxi) and Private Hire Vehicles, Drivers and Operators in line with the new DfT Statutory Standards and the Welsh Government's Harmonisation of Taxi and Private Hire Vehicle Licensing Recommendations.
- b) Approve the need to consult with the trade and the wider public (including relevant local organisations for example; accessibility groups) on a draft Statement of Licensing Policy.



Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

Contents

	Page
1. Introduction.....	4
2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards.....	6
3. Administering the Licensing Regime.....	8
Licensing polices	8
Duration of licences	9
Whistleblowing.....	9
Consultation at the local level	10
Changing licensing policy and requirements	10
4. Gathering and Sharing Information.....	12
The Disclosure and Barring Service	12
The Disclosure and Barring Service Update Service	13
Common Law Police Disclosure	13
Licensee self-reporting	13
Referrals to the Disclosure and Barring Service and the Police	14
Working with the Police	15
Sharing licensing information with other licensing authorities.....	15
Multi-agency Safeguarding Hub (MASH).....	16
Complaints against licensees	17
Overseas convictions	17
5. Decision Making	19
Administration of the licensing framework	19
Training decision makers.....	19
The regulatory structure	20
Fit and proper test	21
Criminal convictions and rehabilitation	21
6. Driver Licensing.....	23
Criminality checks for drivers.....	23
Safeguarding awareness.....	23
‘County lines’ exploitation	24
Language proficiency	25

7. Vehicle Licensing.....	26
Criminality checks for vehicle proprietors	26
In-vehicle visual and audio recording – CCTV.....	27
Stretched Limousines	28
8. Private Hire Vehicle Operator Licensing	29
Criminality checks for private hire vehicle operators.....	29
Booking and dispatch staff.....	30
Record keeping	31
Use of passenger carrying vehicles (PCV) licensed drivers	31
9. Enforcing the Licensing Regime	33
Joint authorisation of enforcement officers	33
Setting expectations and monitoring.....	33
Suspension and revocation of driver licences.....	33
Annex – Assessment of Previous Convictions	35
Annex – Disclosure and Barring Service information	37
Annex – CCTV Guidance	38
Annex - Staying Safe: Guidance for Passengers	40

1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles 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](#) and [Merseyside](#) 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 percent in the [Crime Survey for England and Wales](#).
- 1.2 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](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 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 regulate better 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 therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 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.

- 1.5 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](#) statutory guidance.
- 1.6 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 Department's 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).
- 1.7 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 issue 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' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 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.
- 2.2 The Government set out in the [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 measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 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](#) and [Casey](#) reports 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.
- 2.4 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 Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 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.
- 2.7 “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.
- 2.8 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).
- 2.9 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.

3. Administering the Licensing Regime

Licensing policies

- 3.1 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.
- 3.2 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](#) of February 2015 on safeguarding failings.

“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.”

- 3.3 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.”

- 3.4 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.
- 3.5 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 five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 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 (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five 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 (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 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.

- 3.9 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 [report](#) 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.”
- 3.10 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.
- 3.11 The Public Interest Disclosure Act 1998 (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](#) and [employers](#).

Consultation at the local level

- 3.12 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 (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult 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.
- 3.13 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

- 3.14 **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.
- 3.15 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.

4. Gathering and Sharing Information

- 4.1 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

- 4.2 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.
- 4.3 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. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). 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 guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 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 Disclosure and Barring Service Update Service

- 4.5 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.
- 4.6 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 nine months.
- 4.7 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. Further information on the MSCF is available from the [DBS](#).
- 4.8 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

- 4.9 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.
- 4.10 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.
- 4.11 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

- 4.12 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.

- 4.13 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 Disclosure and Barring Service and the Police

- 4.14 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 has been provided by the [DBS](#).

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

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

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

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 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.
- 4.18 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.
- 4.19 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

- 4.20 As has been stated elsewhere in this document, 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.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 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 has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, 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)

- 4.26 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 three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) 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](#) 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.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. 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

4.29 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.

4.30 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.

4.31 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 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.

4.32 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.

4.33 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 paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 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 (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 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. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 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.

5. Decision Making

Administration of the licensing framework

- 5.1 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.
- 5.2 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

- 5.3 **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 and 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.
- 5.4 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.

5.5 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

5.6 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.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 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.

5.9 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.

5.10 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.

- 5.11 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

- 5.12 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?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) 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

- 5.15 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.

- 5.16 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.
- 5.17 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.

6. Driver Licensing

Criminality checks for drivers

- 6.1 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. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 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 six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 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.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 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.

6.6 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
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (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. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 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”.

6.9 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 15-17 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.

6.10 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.

6.11 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.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 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

6.14 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.

6.15 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.

7. Vehicle Licensing

7.1 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

7.2 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.

7.3 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.

7.4 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 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.

7.5 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.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 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.

7.8 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.

7.9 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.

7.10 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](#) 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.

7.11 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.

7.12 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 (i.e. all parties should be aware when recordings are being made) and targeted (i.e. 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.

- 7.13 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

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine 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 nine 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.
- 7.15 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.

8. Private Hire Vehicle Operator Licensing

8.1 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

8.2 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.

8.3 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

8.4 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.

8.5 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.

- 8.6 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 paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 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.
- 8.8 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.**
- 8.9 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. 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.
- 8.10 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 two 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.
- 8.11 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.

8.12 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

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) 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.

8.14 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 six months.

8.15 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

8.16 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.

- 8.17 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.

9. Enforcing the Licensing Regime

9.1 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

9.2 Licensing authorities should, where the need arises, jointly authorises 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](#).

Setting expectations and monitoring

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

9.4 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 (see paragraphs 4.29 - 4.33). 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

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

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

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and 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.

9.7 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.

9.8 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.

9.9 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.

9.10 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 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 seven 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 seven 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 five 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 seven 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 seven 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 five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

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 [the 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).

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](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), 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](#)' 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 [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [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](#) 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](#) 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](#) 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 e.g.:

- 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.



Llywodraeth Cymru
Welsh Government

GUIDANCE

Taxi and private hire vehicles: licensing guidance

Guidance for local authorities to ensure operators and vehicle drivers meet licensing requirements.

First published: 22 March 2021

Last updated: 22 March 2021

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/taxi-and-private-hire-vehicles-licensing-guidance-html> for the latest version.

Get [information on copyright](#).

Contents

Foreword

Part 1: background and reasons to adopt recommendations

Part 2: recommendations

Foreword

Taxis and private hire vehicles (PHVs) provide a vital public service connecting people to places when alternative public transport services are not available or viable. Taxis perform a vital service to some of the most vulnerable members of society especially in rural areas where there are no other forms of public transport, taxis also deliver a significant contribution to the night time and tourism economy. The support taxis give to our communities cannot be underestimated and the industry is a vital component in our ambitions for public transport in Wales, as set out in the Wales Transport Strategy.

Despite the importance of this sector to our public transport ambitions, the industry remains governed by laws made when the horse drawn hackneys were a common feature on our streets. Put simply, the law is complicated, outdated and is in need of reform. Taxi and PHV licensing is a devolved matter under the Wales Act 2017. Until Welsh Government introduces new legislation, the current licensing legislation that applies to England and Wales will continue to apply.

The primary responsibility for taxis licensing sits with local authorities and local authorities have over many years developed different licencing regimes. These differing standards and the antiquated legislation have in some areas of Wales caused difficulties in safely managing the trade.

Welsh Government are developing new legislation and will be engaging with key

stakeholders over the next 12 months to ensure this meets the needs of the sector. Our long-term aim is to produce a licensing system with a focus on, public safety, equality, improving the environment and customer experience.

The new legislation will take some time to develop properly. Consequently, Welsh Government has been working with the Welsh Local Government Association and taxis licencing leads from Local Authorities from across Wales to develop some short term recommendations to help to better manage the sector between now and the new legislation being and place.

These recommendations are a step towards achieving a consistent, more effective approach to taxi and PHV licensing in Wales. The main focus of the recommendations is to promote safety of the travelling public. We want to ensure that all Wales's taxi and PHV drivers, operators and vehicles are safe and suitable for licensing.

The recommendations in this guide have identified areas that could improve public safety consistently across Wales. If the national and local governments in Wales are going to be able to provide a consistent, more effective and safer approach to taxi and PHV licensing in Wales, prior to new legislation being enacted, I would request that all local authorities adopt these recommendations without amendment as a priority.

Part 1: background and reasons to adopt recommendations

1. Introduction

Taxis (also known as hackney carriages) and private hire vehicles (PHVs) are a vital form of public transport. They deliver a practical door to door transport solution. They provide an essential service to the following:

- People living in rural communities where other forms of public transport are insufficient
- People using the night-time economy

- Passengers with mobility issues

They also play an important role in facilitating social inclusion.

The current legislation relating to taxis and PHVs is out of date, with the main legislation dating back to 1847 and 1976. The legislation allows flexibility around the content of policies and licence conditions. This has contributed to inconsistent policies, standards and conditions across England and Wales.

There are approximately 5,000 licensed taxis, 5,400 private hire vehicles and 12,000 licensed drivers in Wales.

It is clear that the taxi and PHV industry is progressing and adapting faster than the legislation governing it. The introduction of app-based booking and hailing systems has made it quicker and easier for customers to hire vehicles. In some areas this has led to an increase in the prevalence of 'out of town' vehicles and has highlighted the inconsistencies in licensing standards across Welsh local authorities.

In some areas of Wales there is an over-supply of licensed vehicles. This can make it difficult for the taxi and PHV industry in those areas to make a decent living. In other parts of Wales there can be an under-supply of licensed vehicles. In particular disability groups have expressed that it is often difficult to hire vehicles that suit their needs.

The age of the legislation can make administration and enforcement functions challenging for local authorities. For example, enforcement officers do not automatically have powers to take action against 'out of area' drivers/vehicles operating in their area.

The licensing regime needs to be updated to remedy the current problems; ensure that the taxi and PHV licensing system is fit for modern Wales; and promote public safety.

Taxi and PHV licensing is a devolved matter under the Wales Act 2017. Until such time that Welsh Government introduces new legislation, the current national licensing legislation that relates to England and Wales will continue to

apply.

The aim of the recommendations in Part 2 of this guide is to improve the consistency of licensing standards and increase public safety.

2. Background

In December 2018, Welsh Government published the White Paper 'Improving Public transport'. The consultation focused on four proposals:

1. The creation of National Standards to address the variation in taxi and PHV standards across Wales
2. The extension of enforcement powers to allow local authority officers to take enforcement against any taxi/PHV operating in their area
3. The establishment of effective information sharing protocols for the purposes of safeguarding
4. The possible redirection of taxi and PHV licensing functions away from local authorities and towards a Joint Transport Authority (JTA)

The responses to the consultation show strong agreement to proposals one to three. See the [Improving Public Transport consultation outcome](#).

Proposal four was the least popular with local authorities and taxi/PHV trade representatives. Of the 402 responses to this proposal, only 17% answered 'yes' they would agree to licensing functions being redirected to a JTA.

In July 2019, Minister for Economy, Transport and North Wales, Ken Skates AM, made a written statement in response to the White Paper consultation. He accepted there was general support for the proposals 1 to 3, but agreed there was strong feeling that plans did not go far enough to address the challenges faced by the industry and regulators. As a result the Minister stated that the taxi and PHV proposals would be developed further.

3. Welsh Government vision

To take forward the policy development, Welsh Government has developed a

Vision Statement with the following aim:

‘Our aim is to update Wales’s taxi and PHV licensing system to make it fit for a modern Wales. We want to create one consistent standard applied across Wales that promotes safety, contributes to a cleaner environment, improves the customer experience, and is accessible by all.’

The vision statement focuses around the following four themes:

1. Safety: national standards will aspire to ensure that operators, vehicle and drivers are safe and suitable for licensing. Regulators will have the necessary powers to undertake effective enforcement when required.
2. Environment: cleaner licensed vehicles will contribute to national targets for a cleaner environment and reduction in greenhouse gases.
3. Equality: the aim is to ensure that all passengers, regardless of their gender or any disability, have access to suitable vehicles. Drivers and operators will provide a service that fits customer needs.
4. Customer experience: the intention is that all customers in Wales will access a good taxi service. Vehicles will be available, accessible, safe, and driven by suitable drivers that provide good customer service.

4. Outline of recommendations

In response to the White Paper consultation, it was accepted that ‘quick fixes’ could improve some of the current issues. It is intended that the recommendations could be adopted by local authorities without needing legislative change.

The recommendations within this guide have been developed by representatives of Welsh Government, the Welsh Local Government Association (WLGA) and local authority representatives through the Public Protection Board Wales. This guide is used as non-statutory guidance.

The recommendations detailed in part 2 of this guide are designed to:

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/taxi-and-private-hire-vehicles-licensing-guidance-html> for the latest version.

Get [information on copyright](#).

- improve public safety
- increase consistency
- improve the customer experience

So far as is possible without changes in legislation, and without unreasonable cost to licensing authorities and the taxi and PHV industry.

These recommendations alone will not solve all the challenges associated with the existing licensing regime, but they will provide some improvements. They will form the basis for further development by Welsh Government into national standards.

The Department for Transport's 'Statutory Taxi and Private Hire Vehicle Standards' are considered in the drafting of this guide, and adoption of the recommendations in part 2 of this guide will support compliance with a number of the recommendations in the standards. These standards apply to Wales, until such time that Welsh Government introduces new legislation.

5. Reasons to adopt the recommendations

a) Public Safety

The main purpose of licensing is to protect the public. It aims to ensure that drivers, operators and vehicles are safe and suitable to transport the public.

Drivers

Taxis and PHVs are used by all cross sections of society including children, and vulnerable adults. Members of the public across Wales should expect that a licensed driver is competent, honest, safe and trustworthy.

In March 2016, the Home Office published its Modern Crime Reduction Strategy. As part of the Strategy, the UK Government has committed to remove opportunities for criminals to commit child sexual abuse and violence against women and girls, by working with local areas to introduce rigorous taxi and

private hire licensing regimes.

Both the Jay and Casey reports on child sexual exploitation in Rotherham highlighted examples of taxi drivers being 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 in exchange for free taxi rides.

The Casey Report made it clear that weak and ineffective arrangements for taxi licensing had left the public at risk. In response to the reports and in contribution to the Home Office's Modern Crime Reduction Strategy, the Department for Transport has recently published statutory standards for local authorities for the licensing of taxis and private hire vehicles.

The Welsh Government National Action Plan Preventing and Responding to Child Sexual Abuse (June 2019) stated that more could be done across Wales in terms of consistent arrangements for safeguarding training for taxi drivers.

It is important that all possible actions to ensure that licensed drivers are safe and suitable be taken into account. In relation to licensing drivers, it is considered that the adoption of the following recommendations will enhance public safety across Wales:

- enhanced DBS checks and use of DBS Update Service
- checks on applicant's that have lived abroad for more than 6 months
- standardised medical checks
- use of the NR3 refusal/revocation register
- safeguarding training
- applicant and licence holder suitability policy

Vehicles

To ensure public safety, local authorities necessitate various licensing requirements for taxis and PHVs such as vehicle testing standards, age restrictions and vehicle specifications. These requirements aim to confirm that vehicles are suitable and remain safe for public use.

Across Wales, licensing requirements differ significantly and it is considered too costly at this stage to attempt to harmonise these policies and conditions ahead of any legislative change.

Presently, the main area of vehicle licensing agreed for harmonisation is the type and use of vehicle CCTV systems (both internal and external facing cameras).

Vehicle CCTV systems are a useful tool in the prevention and investigation of crime. It can provide protection to both the driver and passengers.

Taxi drivers frequently transport passengers who are intoxicated, which can pose a risk to their safety. They also often carry large sums of cash which can make them a target of robbery. CCTV may act as a deterrent to such crimes.

Taxi drivers are sometimes falsely accused of crimes. This can result them to being out of work for some time if their license is suspended/revoked pending the investigation. CCTV may assist in disproving false allegations in a timely manner.

Currently there are no local authorities in Wales that require the mandatory use of CCTV, but many allow it on a voluntary basis. The cost of a suitable CCTV system can be expensive, and local authorities are required to develop extensive policies and risk assessments if they mandate the use of CCTV in their licensed vehicles.

Some local authorities in England that have required the mandatory use of CCTV have been able to offer reduced rates through various funding initiatives.

Although the mandatory use of CCTV is something that Welsh Government may consider in future national standards, this stage an agreed specification for proprietors that wish to install a system on a voluntary basis is considered beneficial. The specification will ensure that systems are safe and compliant with current data protection requirements.

Local authorities will need to ensure that they have Privacy Impact Assessments and Data Download Policies in place when approving the use of in-vehicle CCTV systems.

Private Hire Operators

Private hire operators often collate large amounts of personal data and are in a position of trust. For example, they may be aware of when people are away from their properties on holiday. It is thus important that local authorities establish that operators are 'fit and proper' for licensing.

Operators are also often the first point of call for passengers wishing to complain about the service they have received from a taxi/PHV driver. In some cases relevant information is not always fed back to the licensing authority, who may need to decide on whether a driver remains 'fit and proper' to continue as a licensed driver.

In drafting the recommendations, local authority representatives felt that private hire operator conditions could be improved across Wales, with additional requirements for notification of offences and documented complaints procedures.

b) Consistency

Local authorities currently create their own taxi and PHV licensing policies and conditions. This means that requirements for licences differ substantially across the 22 authorities in Wales.

The taxi and PHV trade often see this as unfair and claim that in some areas it adds to problems of 'cross-border hire'. There are assertions that some applicants licence with local authorities that have lower licensing requirements and then predominantly undertake private hire work in other areas of higher demand. This practice is lawful but can lead to problems in some areas such as:

- increased traffic congestion,
- an over-supply of licensed vehicles in towns/cities which can reduce a driver's income,
- confusion for the public as the vehicle they hire may be licensed by a different licensing authority,
- unfairness for the taxi /PHV trade in terms of required standards,

- enforcement limitations as local authority officers have restricted powers against 'out of town' vehicles.

Without standardised licensing requirements and fees across Wales, it is recognised that the problems of cross-border hire will remain. However, the recommendations in part 2 of this guide have been created as a first step to improving consistency across Wales.

c) Enforcement

Harmonised driver and operator licence conditions across Wales will help to improve the consistency of enforcement.

In addition it is recommended that a protocol for the adoption of cross-border authorisation of officers is introduced in areas that have problems with cross border hire. A suggested protocol is detailed in the Local Government Association's Taxi and PHV –Councillor's Handbook (England and Wales).

Such protocols facilitate enforcement officers to take more effective action against 'out of town' vehicles working in their area.

d) Accessibility

Welsh Government's plan is that Wales's taxis and PHVs are accessible by all. There are many documented accounts from members of the public that have experienced problems accessing taxi and PHV services in Wales.

One in five people in the UK (13.3 million) are reported to have a disability; of those only 26% of those reporting a disability are under the age of state pension. Mobility impairments are the most prevalent type of disability and account for 49% of impairments.

Wales is higher than the UK average in terms of reported disabilities with 25% of people reporting a disability as opposed to the UK average of 21%.

In 2017 Disability Wales undertook a survey to capture the experiences of

disabled people using taxi and PHVs across Wales. They found that 78% of respondents to the survey identified as disabled, and 64% of respondents stated that they experienced problems when using taxis or PHVs. Problems highlighted in the survey included:

- lack of accessible vehicles;
- refusal to take passengers in wheelchairs or those with assistance dogs;
- overcharging;
- driver inability to secure wheelchairs correctly.

There is further work to be done to make certain that passengers with disabilities do not continue to experience these types of problems.

Part 2 details a procedure for licensed drivers seeking exemptions to their duties under the Equality Act 2010. It is anticipated that this will evoke a consistent approach to the issuing of exemption certificates and make certain that only those with genuine reasons under the legislation can be exempt from their duties.

In addition, a suggested licence condition applicable to proprietors/drivers of wheelchair accessible vehicles aims to ensure that all drivers are able to deploy wheelchair ramps correctly and load and secure wheelchairs safely.

It should be noted that the matters contained within the Equality Act 2010 are a reserved matter, and as such will continue to have affect in Wales after such time that new taxi licensing legislation is introduced.

e) Customer service

Local Authority Officers have expressed that many of the complaints they receive relate to driver's conduct and behaviour. This can be particularly difficult to deal with in terms of enforcement if there is no clear breach of legislation or licence condition. It comes down to deciding whether a driver is 'fit and proper' to continue as a licensed driver.

A driver Code of Conduct has been developed to assist licensed driver's understanding of what level of service and behaviour is expected of them. It

should be communicated to drivers that failure to meet the standard required in the Code could cause concern about their suitability to continue as a licensed driver. The Code can also assist the public in understanding what standard of service they can expect.

A driver Dress Code has also been developed to ensure that drivers' clothing is of a suitable standard and they maintain a professional appearance.

Welsh Government aims to increase the professionalisation of the taxi and private hire industry to ensure that the trade offers excellent customer service and act as ambassadors for Wales.

6. Conclusion

Welsh Government has a vision of how the taxi and PHV trade should evolve in Wales. This will involve the introduction of new legislation to transform the outdated licensing regime.

This Guide is issued as non-statutory guidance. The recommendations in Part II of this guide are seen as a starting point for change in order to address some of the existing problems with the licensing regime, improve standards and consistency. In order to achieve this it is strongly recommended that each local authority in Wales adopt these recommendations (where they are not already in place) for the reasons outlined above.

When making changes to Licensing Policies it is recommended that local authorities should consult with local stakeholders and undertake impact assessments where necessary.

When making changes to Licensing Policies it is recommended that local authorities should consult with local stakeholders and undertake impact assessments where necessary.

Adoption of the recommendations in this guide will also support compliance with many of the recommendations of Department for Transport's 'Statutory Taxi and Private Hire Vehicle Standards'.

Part 2: recommendations

It is recommended that the following policy wording and measures are incorporated into the licensing authority's hackney carriage and PHV licensing policy, and the documents in the appendices are adopted.

Local authorities should follow their usual procedures when reviewing their licensing policy statements.

1. Driver standards

a) DBS check

In order to satisfy the authority that they are a 'fit and proper' person, all applicants for the role of hackney carriage or private hire vehicle (PHV) driver will undergo an Enhanced Disclosure and Barring Service (DBS) check, which includes a check of the children and adult barred lists. For licensed drivers this check will be repeated every 6 months.

All applicants/licence holders must sign up to the DBS Update Service and maintain their subscription for the duration of their licence. The licence holder must give permission for the Licensing authority to undertake checks of their DBS status.

Disclosure and Barring Service certificates will only be accepted if the disclosure is dated within one calendar month prior to the application. To assist in assessing the suitability of applicants and licence holders the licensing authority will have regard to the Institute of Licensing's '[Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades](#)' April 2018.

It should be noted that individuals that appear on either barred list will routinely have their application refused, unless there are exceptional circumstances in which the licensing authority considers that, on the balance of probabilities, the individual is 'fit and proper'.

b) Overseas criminal record check

All applicants for a hackney carriage or PHV driver's licence that have spent 6 or more continuous months outside the United Kingdom since their tenth birthday the Licensing authority will need to see evidence of a criminal record check from the country / countries visited covering the period that the applicant was overseas.

The applicant will be required to cover any financial costs of such checks.

For EU nationals (including UK citizens) suitable checks should be available. For those countries for which checks are not available, the Licensing authority will require a certificate of good conduct authenticated by the relevant embassy. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Information regarding certificates of good conduct or similar documents from a number of countries is available from: [GOV.UK Criminal records checks for overseas applicants](#).

In the event that an applicant is not able to obtain a certificate of good conduct, they should not progress with their application and should contact the Licensing authority for further information.

Overseas criminal history checks must have been obtained within the 6 month period preceding the application.

The Licensing authority will require any Certificate of Good Conduct that the applicant may have regardless of the age of the document.

Certificates of Good Conduct which are in a language other than English will be required to be translated into English at the applicant's expense by an independent translation service and the translation must be verified.

c) Medical checks

All applicants for a hackney carriage/private hire driver's licence are required to meet the DVLA Group 2 medical standards of fitness to drive. The medical must

be carried out by the applicant's own general practitioner (GP) or another GP at the applicant's registered practice that has full access to their medical records.

In exceptional circumstances, and only with prior agreement from the Licensing authority, a medical assessment may be carried out by another registered GP practice as long as the applicant's full medical history has been viewed and assessed by that GP.

The licensing authority may direct any licence holder to supply satisfactory evidence in the form of a medical certificate, stating the licence holder meets the required Group 2 standards, should their medical fitness be called into question.

Any applicant for the grant or renewal of a licence who is unable to satisfy the licensing authority that they meet the required medical standard shall not have a licence granted to them, or the licence shall not be renewed, or shall be revoked.

The requirement for applicants/licensed drivers to complete a medical examination is as follows:

- Upon application, every 5 years between the ages of 45 and 65
- Every year when the driver is aged 65 years or over
- Or anytime as required by the licensing authority or the medical practitioner.

The medical form is valid for 4 months from the date the examining doctor, optician or optometrist signs it.

All licence holders are required to inform the licensing authority of any illness or condition that affects their ability to drive.

All costs associated with obtaining the relevant medical certificate are to be met by the applicant/licence holder.

Find the medical form: [Medical report for taxi or private hire vehicle drivers licence: application form](#)

d) Equality Act medical exemption policy

The Equality Act 2010 places a number of legal duties on licensed drivers when transporting passengers with disabilities.

In order to improve compliance with the requirements of the Equality Act, the Policy detailed in **Taxi and private hire vehicles: Equality Act medical exemption policy** should be adopted with regards to driver medical exemptions from the obligations concerning the carriage of assistance dogs and passengers in wheelchairs.

e) Driver conduct

It is expected that licensed drivers behave in a professional manner and provide a high quality service at all times.

The **taxi and private hire driver's code of conduct** has been developed to outline the standards expected of licensed drivers and is an integral part of the 'fit and proper' assessment.

The Code also serves to advise potential passengers of the level of service they should expect when hiring a licensed vehicle.

f) Driver dress code

It is recognised that the taxi trade, both Hackney Carriage and Private Hire, plays an important role in portraying a positive image of the area and drivers can be seen as key ambassadors for Wales.

Anything that serves to enhance the professional image of the Hackney Carriage and Private Hire trade, and promotes the concept that drivers of licensed vehicles are professional vocational drivers, is to be welcomed.

To ensure that not only are the above objectives are met but, also that driving is carried out safely, a Dress Code for licensed drivers has been set, which is detailed in **Taxi and private hire vehicles: dress code**.

g) Private hire driver conditions

The conditions of licence applicable to drivers of private hire vehicles are detailed in [Private hire vehicle drivers: licensing conditions](#).

h) Safeguarding training

Hackney carriage and private hire drivers have an important responsibility in the safe transportation of fare paying passengers. Drivers are expected to act in a professional manner at all times and provide excellent customer service.

Licensed drivers can often be the eyes and ears of a community. Training can be important in assisting licensed drivers in recognizing when they carrying passengers at risk of abuse and exploitation.

All new applicants for a hackney carriage/private hire driver's licence must undertake safeguarding training. The training focuses on recognising what makes adults and children vulnerable, violence, sexual exploitation, county lines and human trafficking indicators. It includes examples of suspicious journeys as well as information on maintaining professional boundaries.

The training is in the form of the following video and a test based on the content of the video must be passed prior to obtaining a licence.

Watch the video: [Safeguarding training for Hackney Carriage and Private Hire drivers and passenger assistants](#)

2. Vehicle standards

a) DBS check

All applicants for a hackney carriage and PHV vehicle licence will be required to submit a basic disclosure from the DBS in order to satisfy the authority that they are a 'fit and proper' person. This checks will be repeated for vehicle licence holders annually. The cost of these checks will be covered by the applicant/

licence holder.

Applicants that already hold a hackney carriage or private hire driver licence with this authority are not required to provide the basic disclosure as part of their application for a private hire operator's licence.

To assist in assessing the suitability of applicants and licence holders the licensing authority will have regard to the Institute of Licensing's 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' April 2018. The guidance is detailed in the Institute of Licensing's '[Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades](#)'.

Driving offences will not normally be considered as part of the assessment for vehicle licence holders.

Information contained within an enhanced DBS check that would not be disclosed on a basic check will not be considered as part of the assessment for a vehicle licence.

b) Overseas criminal record check

All applicants for a hackney carriage or PHV driver's licence that have spent 6 or more continuous months outside the United Kingdom since their tenth birthday the licensing authority will need to see evidence of a criminal record check from the country / countries visited covering the period that the applicant was overseas.

The applicant will be required to cover any financial costs of such checks.

For EU nationals (including UK citizens) suitable checks should be available. For those countries for which checks are not available, the Licensing authority will require a certificate of good conduct authenticated by the relevant embassy. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Information regarding certificates of good conduct or similar documents from a number of countries is available from: [GOV.UK Criminal records checks for overseas applicants](#).

In the event that an applicant is not able to obtain a certificate of good conduct, you should not progress with your application and should contact the Licensing authority for further information.

Overseas criminal history checks must have been obtained within the 6 month period preceding the application.

The licensing authority will require any Certificate of Good Conduct that the applicant may have regardless of the age of the document.

Certificates of Good Conduct which are in a language other than English will be required to be translated into English at the applicant's expense by an independent translation service and the translation must be verified.

c) Vehicle Closed Circuit Television Cameras (CCTV)

Security for drivers and passengers is of paramount importance and internal vehicle CCTV cameras can be a valuable deterrent.

The use of an internal vehicle CCTV system must be approved by the Licensing authority, and must meet or exceed the specifications set out in **Taxi and private hire vehicles: CCTV specifications and conditions**.

The system must be capable of both visual and audio recordings (in emergency situations).

Conditions in relation to CCTV systems are included in the hackney carriage and private hire vehicle licence conditions.

It is the responsibility of the licensed driver to make certain that the CCTV system is fully operational at the start of each shift and before accepting a fare paying passengers.

d) Video Point of Impact Systems (VPIS) / Dash cams

The licensing authority allows the use of VPIS systems (external facing dash

cams) in hackney carriage and private hire vehicles. The proprietor of any vehicle fitted with a VPIS system must comply with the conditions set out in [Taxi and private hire vehicles: dash cam policy](#).

e) Accessibility

Designated wheelchair accessible vehicles (WAVs) must be able to facilitate the carriage of disabled persons and accommodate a disabled person in a 'reference' wheelchair* in the passenger compartment.

*A reference wheelchair is defined in Schedule 1 of the [Public Service Vehicles Accessibility Regulations 2000](#).

Proprietors have a responsibility to ensure that any licensed driver who drives one of their wheelchair accessible vehicles is made aware of their duties in respect of carrying disabled persons in wheelchairs when driving a licensed wheelchair accessible vehicle.

The following condition of licence should apply to proprietors of WAVs:

The proprietor of a licensed wheelchair accessible vehicle must demonstrate to every driver of the vehicle how to assist a passenger in a wheelchair into and out of the vehicle and correctly secure the wheelchair in the vehicle. This will include showing the driver how to deploy the ramp(s) and how to use and adjust the restraints. The proprietor must keep a record of this demonstration and include the following:

- a) The date of the demonstration
- b) The name and licence number of the driver
- c) A signed and dated acknowledgment by the driver that the demonstrating has taken place and he/she clearly understands how to transport a passenger in a wheelchair into the vehicle

The proprietor must retain this record for as long as the driver is using the vehicle. If the driver rents the vehicle again in future the proprietor must repeat

the demonstration and record.

In the case that the proprietor is also the licensed driver of the vehicle, the proprietor shall record a signed acknowledgement to certify that he/she can perform the vehicle manufacturer's instructions on how to safely transport a wheelchair passenger into and out of the vehicle and how to secure the wheelchair.

3. Private Hire Operator Standards

a) DBS Check

All applicants for a grant or renewal of a Private Hire Operator's licence must submit a basic disclosure (dated within one month of the application) which can be obtained from Disclosure & Barring Service in order to satisfy the authority that they are a 'fit and proper' person. In the case of applications from a company or organisation, all director of the company/organisation must provide a basic disclosure. The cost of these checks will be covered by the applicant/licence holder.

Applicants that already hold a hackney carriage or PHV driver's licence with this authority are not required to provide the basic disclosure as part of their application for a private hire operator's licence.

To assist in assessing the suitability of applicants and licence holders the licensing authority will have regard to the Institute of Licensing's 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' April 2018. The guidance is detailed in the Institute of Licensing's '**Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades**' .

Driving offences will not normally be considered as part of the assessment for private hire operator licence holders. Information contained within an enhanced DBS check that would not be disclosed on a basic check will not be considered as part of the assessment for a private hire operator's licence.

b) Private Hire Operator conditions

The conditions of licence applicable to private hire vehicle operators are detailed in [Private hire vehicle operators: licensing conditions](#).

4. General policy

a) Licence holder self-reporting

All Licence holders are required to notify the issuing authority within 48 hours of any arrest and release for any sexual offence, any offence involving dishonesty or violence and any motoring offence. Further notifications to the licensing authority must be made within 48 hours of any charge and any conviction. Failure by a 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.

b) National register for hackney carriage and private hire licence revocations and refusals (NR3)

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

Therefore:

- Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the

authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself will be limited to:

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

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

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

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

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

You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling

of data can be found on the ICO's website: [Make a complaint](#).

c) Cross border enforcement

Where it becomes apparent that either a number of vehicles licensed by this authority are undertaking the majority (i.e. over 50%) of private hire work in another local authority area, or when it is evident that a number of vehicles licensed by another local authority are undertaking the majority of private hire work in this area, the licensing authority will endeavour to develop enforcement protocols with those local authorities.

In these circumstances the following protocol (as described in the Local Government Association's Taxi and PHV Licensing- Councillor's handbook) will be followed:

- All authorities agree what level of expertise/qualification/skills is the minimum for approval of authorisation of each individual.
- All authorities establish, via their own schemes of delegation, what procedural steps need to be taken to validly authorise (i.e. chief officer's report, sub-committee or full committee decision).
- All authorities agree the form and wording of the 'letter of authorisation' and 'photo warrant card' to be issued.
- Each 'requesting council' formally requests authorisation of named individual officers.
- Each 'receiving council' obtains authorisation and provides a 'letter of authorisation' in respect of the other authority's officers.
- Each employing authority provides its own officers with a photo warrant card specifying that for the purposes of [specify Acts of Parliament] that officer [name] is a duly authorised officer of [list all authorising councils].
- Each authority provides all officers with copies of appropriate bylaws, conditions and agreed methodologies/reporting mechanisms for dealing with defective vehicles and other issues from other areas.
- Each authority seeks political and financial approval for pre-planned joint operations both with each other and also police/HMRC Customs & Excise.
- Data sharing protocols, as required, be established between authorities, including standard incident reporting templates/operation logs to be used by

all for consistency and scheme recording.

d) Suitability policy

In order to assess the suitability of applicants and licence holders the licensing authority will have regard to the Institute of Licensing's 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' April 2018.

The guidance is detailed in the Institute of Licensing's '[Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades](#)'.

e) Department for Transport (DfT) Statutory Taxi and Private Hire vehicle standards

DfT's Statutory Taxi and Private Hire Vehicle Standards sets out a framework of policies under Section 177 (4) of the Policing and Crime Act 2017 that licensing authorities "must have regard" to when exercising their functions.

In order to safeguard children and vulnerable adults the licensing authority is committed to implementing the recommendations of the DfT's Statutory Taxi and Private Hire Vehicle Standards, wording of this Policy has been amended to take account of the Standards.

About this document

This document is a copy of the web page [Taxi and private hire vehicles: licensing guidance](#) downloaded.

Go to <https://gov.wales/taxi-and-private-hire-vehicles-licensing-guidance.html> for the latest version.

This document may not be fully accessible, for more information refer to our [accessibility statement](#).

Get [information on copyright](#).

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/taxi-and-private-hire-vehicles-licensing-guidance-html> for the latest version.

Get [information on copyright](#).

REPORT TO:	Licensing Committee
DATE:	23 rd June 2021
LEAD OFFICER:	Head of Planning, Public Protection & Countryside Services
CONTACT OFFICER:	Senior Licensing Officer licensing@denbighshire.gov.uk 01824 706433
SUBJECT:	Update on Zero emission vehicles with the licensed vehicle fleet

1. PURPOSE OF THE REPORT

- 1.1 To update Members on the current position relating to the Welsh Government Green Taxis Pilot Scheme for zero emission vehicles.

2. EXECUTIVE SUMMARY

- 2.1 Denbighshire was successful in securing Welsh Government funding for four electric vehicles and charging infrastructure to pilot a 'try before you buy' scheme.

3. BACKGROUND INFORMATION

- 3.1 The Welsh Government has set a target of de-carbonising the taxi fleet entirely by 2028.
- 3.2 It is anticipated that the Green Taxi pilots will assist in achieving this target as it will help taxi drivers to realise the financial and environmental benefits of zero-emission vehicles, which will hopefully contribute to the transition from diesel/petrol vehicles to zero-emission vehicles. The pilots will run for 2-3 years.
- 3.3 The three pilot areas are Cardiff Capital Region (CCR), Denbighshire Council, and Pembrokeshire Council. In total 50 fully electric wheelchair-accessible Nissan [Dynamo](#) taxis will be purchased, 44 for the CCR, 4 for Denbighshire and 2 in Pembrokeshire. The associated charging infrastructure (for the exclusive use of taxis) will also be installed in each area.
- 3.4 The scheme will operate on a 'try before you buy' initiative, which will allow licensed taxi drivers in each area to try the vehicle free of charge

for 30 days. The trial will include free electric charging, insurance, vehicle licensing, breakdown cover etc.

3.5 On completion of the trial, drivers will be asked to complete an evaluation survey and be provided with information on schemes/assistance available for long term ownership/lease of zero-emission vehicles.

3.6 Each pilot area will be responsible for managing the scheme i.e. CCR, Denbighshire and Pembrokeshire, with a similar application process across each area. For Denbighshire, Fleet Management are leading and administering the project.

3.7 For Members information, Zero emission vehicles emit zero emissions in their life-cycle and Ultra-Low emission vehicles (Hybrid and E-REV) use a conventional engine to either act as an additional fuel source for the vehicle or as a fuel source for the battery. Hybrids and E-REV have lower CO2 emissions as a result of improved fuel economy and the ability to operate in electric only mode

4.0 **RECOMMENDATIONS**

4.1 For Members to note the contents relating to the update on the Welsh Government Green Taxi Pilot Scheme.

REPORT TO:	Licensing Committee
DATE:	23 rd June 2021
LEAD OFFICER:	Head of Planning, Public Protection and Countryside Services
CONTACT OFFICER:	Senior Technical Officer (Licensing) licensing@denbighshire.gov.uk 01824 706451
SUBJECT:	Review of Street Trading Policy

1.0 PURPOSE OF THE REPORT

- 1.1 To inform Members of the current position with regard to a review of the street trading policy within Denbighshire.

2.0 EXECUTIVE SUMMARY

- 2.1 Work has been ongoing in drafting a Street Trading Policy and officers are seeking Members' views on the revised draft policy (attached at Appendix A). This version has been developed with a view to providing a policy which is fit for purpose and which addresses the concerns for all who may be affected.

3.0 POWER TO MAKE THE DECISION

- 3.1 Local Government (Miscellaneous Provisions) Act 1982 Part III, Schedule 4, Street Trading.

4.0 BACKGROUND INFORMATION

- 4.1 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling, exposing or offering articles for sale in a street. The relevant Part of the Act was re-adopted by the Council in June 2002. The definition of a "street" is wide ranging and includes any road, footway, beach or other area to which the public have access without paying and service areas as defined under Section 329 of the Highways Act 1980.
- 4.2 Any person wishing to trade on streets in the County needs to apply for Consent from the Licensing Authority. This is because the Licensing Authority has designated all streets in Denbighshire as "Consent Streets"

for street trading purposes.

- 4.3 There is one exception to this, which is that streets in and around Rhyl and Prestatyn Town Centres are designated as “Prohibited Streets where no trading is permitted to take place (Appendix A of the Draft Policy).
- 4.4 In 2015, Members authorised officers to review the street trading approval procedures in order to address difficulties with the current regulations and suggest improvements to better regulate and support street trading within the County.
- 4.5 A draft policy was considered by the Licensing Committee in December 2016 and it was agreed that an initial consultation be undertaken with City, Town and Community Councils, along with internal Council departments
- 4.6 Comments from that initial consultation were incorporated into a draft Street Trading Policy which went forward to public consultation. No comments were received.
- 4.7 As mentioned above, the public consultation did not provide any responses. However, officers subsequently received feedback from other individuals and teams from within the Council, including Members, and it was concluded that further work was required before a Street Trading Policy which is fit for purpose can be presented to this Committee for consideration.
- 4.8 Much has changed from the original decision to review the policy, such as the challenges faced by our High Streets which have been compounded by the Covid-19 crisis and Members will be mindful of this when considering the new revised policy.
- 4.9 Officers are proposing that if, having examined the attached policy, Members authorise a full consultation to take place, we will at the same time undertake discussions with business groups and communication experts within the Council. This will allow us to understand the needs of those who may be affected by the policy, notably local “fixed” traders, business groups, communities and the wider Council teams, e.g. Planning, Highways and Environmental Services, etc.

5.0 OFFICER COMMENTS

- 5.1 The consultation and engagement outlined at 4.9 above will enable officers to make any necessary adjustments to the policy before presenting it to a future Licensing Committee.

5.2 As part of the ongoing development of the policy, Members may also feel it appropriate to develop a “sub-group” to discuss certain items within the policy such as:

- How best the policy can support permanent outlets and street traders alike, given the changing landscape of our High Streets and retail areas.
- Whether any changes are required to the current system of Prohibited Streets in Rhyl and Prestatyn (Appendix B).

6.0 RECOMMENDATIONS

6.1 That Members consider the policy at Appendix A and, if appropriate, give approval for consultation.

6.2 To consider the suggestion of forming a “sub-group” and whether they might wish to nominate a Member of the Committee to liaise with officers on this matter.

Street Trading Consent Policy

2021

(DRAFT)

**Denbighshire County Council
Street Trading Consent Policy (Draft)**

Contents

1	Purpose	3
2	What is Street Trading?	3
3	Exemptions	4
4	Street Trading Consents for which fees are not payable	4
5	Nature of goods	5
6	Site Assessment	5
7	Applications	6
8	Enforcement	9
9	Fee Structure.....	9
10	Delegation of Functions	9
11	Renewals.....	9
12	Decisions	10
13	General.....	10
14	Review of the Policy	10
15	Contacts.....	11

APPENDICES

Appendix A – PROHIBITED STREETS.....	12
Appendix B - FEES.....	14
Appendix C -APPLICATION FOR A STREET TRADERS CONSENT.....	15
Appendix D - APPLICATION FOR A STREET TRADERS ASSISTANT	158
Appendix E – GLOSSARY OF TERMS.....	21
Appendix F – HOW WE USE YOUR INFORMATION	Error! Bookmark not defined.2

1 Purpose

1.1 The Council's Street Trading Policy aims to create a street trading environment which:

- compliments premises-based trading.
- provides diversity and consumer choice.
- supports community cohesion and equalities.
- enhances the character, ambience and safety of the local environment.
- is sensitive to the needs of residents and business.
- highlights the standards expected of street traders.
- provides guidance to those that administer the street trading service.
- aims to prevent the obstruction of the streets of Denbighshire by street trading activities. In doing so, it recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people in the area.

2 What is Street Trading?

2.1 The purpose of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) is to ensure that Councils can properly regulate those who sell without the use of ordinary business premises and, particularly, traders who move from place to place. It is concerned, primarily, with commercial activities, excluding the provision of services.

2.2 Denbighshire County Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of the County. All streets within the area are designated as Consent Streets except those streets designated as Prohibited Streets. The effect of this designation is that trading on any street is prohibited by law (subject to legal and other exemptions set out in Section 3 below), without first obtaining a Street Trading Consent (a Consent) from the Council.

2.3 Street trading means 'selling, exposing or offering for sale any article (including a living thing) in a street'. The term 'street' includes 'any road, footway, beach or other area to which the public have access without payment'. For instance, this might include public car parks or lay-byes etc (see also 2.5 below).

2.4 The fact that a trader has a lease or licence i.e. a right to occupy the land, or has some other form of consent e.g. planning consent or a licence under the Licensing Act 2003, will not override the requirement to obtain a Street Trading Consent where the trading amounts to street trading. Similarly, holding a Consent for street trading will not override any byelaws or remove the obligation on the trader to comply with any other legal requirements e.g. registration as a food business, nor override the duty to comply with the general law concerning e.g. trespass (e.g. the landowner's permission to occupy the land and trade must be obtained prior to making an application for Consent), highways, planning, licensing, health and safety, nuisance, waste disposal requirements etc.

2.5 Any person street trading without a valid Consent commits a criminal offence. The courts have held that the definition of a 'street' does not depend upon the area of land in question being in public ownership and private land may be classified as 'a street' too if it meets the definition in the Act and the precise circumstances of the trading indicate that it amounts to street trading (street as defined in 2.3).

2.7 No consent can be given to trade upon any dual carriageway or area under the

Authority of the North and Mid Wales Trunk Road Agency (e.g. the A494, A470 & A5).

2.8 No consent may be given to any area subject to a byelaw or area subject to a street trading Public Space Protection Order (PSPO)

3 Exemptions

3.1 Some types of trade are exempt from the need to obtain a street trading consent. These include:

- a person trading under the authority of a Pedlars' Certificate granted under the Pedlars Act 1871 (issued by the Police) excluding areas subject to a street trading Byelaw/PSPO or private property.
- trade carried on or at a licensed petrol filling station
- a market trader operating at a market venue which acquired this status by virtue of a grant, enactment or order.
- shops do not require a Consent if they operate within their defined curtilage outside the actual building, providing the trading is, essentially, an extension of the shop etc e.g. where a shoe shop has rails of shoes on display outside the shop; again this does not negate the need to comply with other legislation such as the requirement for a pavement licence (obtainable from DCC), if appropriate:
- trade carried out by 'roundsmen.' A 'roundsman' has been defined as one who visits a 'round' of customers delivering the orders of those customers". e.g. milkmen. N.B An operator of an ice cream unit is not a roundsman and will be considered as a mobile trader.
- charitable collection, unless goods are sold (although a collection permit, under the Charities Act 1992 may be needed).
- Trading in privately run shopping centres with covered mall walkways such as the White Rose Centre and Queen's Market, Rhyl, along with fairs, carnivals, etc where trading is ancillary

4 Street Trading Consents for which fees are not payable

4.1 An application will still be required but Denbighshire County Council will not require the payment of fees for the following street trading activities:

- Goods from working farms sold at or on the premises where they were produced.
- Sales of articles (not for trade) by householders on land contiguous with their homes such as garage sales, for example.
- Goods sold by schools at or on the premises where they were produced.
- Some Community run and/or charitable events supported by the Ward Councillor(s) where the Licensing Section is notified in writing in advance of the event. It should be noted that some types of event will incur a fee, dependent on the nature of the event and the intended Street Trading, along with the number of the intended traders (please refer to Fee Structure at Appendix B).

4.2 The above does not negate the need to comply with other legislation, such as a Temporary Events Notice, Pavement Licence or Planning Permission.

5 Nature of goods

5.1 The Council would not normally grant a Consent for the sale of goods which conflict with those provided by nearby shops or markets where it may provide an unfair economic advantage to the holder of the Consent.

5.2 The type of goods permitted to be sold will be considered on a site by site basis having particular regard to local needs, product diversity and specialism e.g. artisan breads, and appropriateness of the proposed location in terms of space and balance.

5.3 Street trading hours may mirror, normally, those of the shops or businesses in the immediate vicinity except for markets, events or hot food or other takeaway (street foods) where trading hours may be determined on a site by site basis.

5.4 The Council will not allow the sale of:

- drugs or smoking/vaping paraphernalia,
- non-fishing catapults,
- BB-Guns, or weapons of any kind.
- live (not including fishing bait) or performing animals
- any item that might cause alarm distress or offence (determined by the delegated Officer).
- hot food and drink between 23:00 - 05:00 unless an authorisation is available under The Licensing Act 2003.
- Any item considered illegal under the relevant legislation, eg Counterfeit Goods

5.5 The above list is not exhaustive and a decision on the type of goods authorised for sale will be made on a case by case basis.

6 Site Assessment

6.1 In determining whether Street Trading in a particular area is appropriate the Council will have regard to:-

- Any effect on road safety arising from the location of the pitch or from customers leaving or visiting the site
- any loss of amenity caused by noise, traffic, litter or fumes which may affect nearby existing businesses or residents
- whether there is already adequate provision in the immediate vicinity of the proposed trading site
- existing Traffic Orders e.g. waiting restrictions
- any potential obstruction of pedestrians or vehicular access
- whether the pitch interferes with sight lines for any road users e.g. pedestrian crossings or traffic lights
- whether permanent planning permission has been gained
- the original purpose/nature of the item for sale e.g. whether it is a wholly charitable or domestic purposes or is the sale of a service rather than goods.
- the character and ambiance of the requested site.
- the general use of the area.

6.2 Street Trading may overlap with other regulatory regimes such as Planning Permission, Highways Permission, Food Hygiene and Registration, etc. The Licensing Authority will, as far as possible, seek to avoid duplication of regimes that

already place an obligation on traders. We will do this by requiring evidence of such permissions at the time of application.

6.3 Prior to applying, please contact the relevant section (below) for details on obtaining permissions:

Trading on Denbighshire owned land: catherine.jonesblack@denbighshire.gov.uk
Trading on Denbighshire Streets: streetworks@denbighshire.gov.uk
Some sites may require planning permission: planning@denbighshire.gov.uk
Food Registration Enquiries: Food.Safety@denbighshire.gov.uk
Alcohol and Late Night Refreshment* licensing@denbighshire.gov.uk

*Some events may require a Temporary Events Notice or Premises Licence if they involve the sale of alcohol or late night refreshment and you can apply via this link <https://www.denbighshire.gov.uk/en/licences-permits-and-trading-standards/entertainment-and-alcohol/tens.aspx>

7 Applications

7.1 Street Trading Consents (excluding prohibited streets and highways referred to in section 2.7) may be issued for:

Temporary Prime Sites

These sites are designated for areas where large scale events take place, possibly on an annual basis such as Rhyl Air Show or Temporary Christmas Markets, for example.

- If you are organising an event such as a Christmas Market, we will require a single point of contact to supply details of stallholders and their required documentation. As a point of contact, you may also be asked to attend a Safety Advisory Group Process (SAG) to allow organisers and relevant authorities to meet and plan the event as described at 4.1.

Prime fixed sites

The prime fixed sites will pay a higher fee to reflect the fact that trading in this part of the County is subject to a higher footfall and trading mainly takes place on the street rather than on private land, thereby not incurring additional charges for ground rent.

Suggest High Footfall areas to be determined but would need to consider Prohibited Streets eg High Streets, Town Squares, etc Also, may wish to consider “fixed/permanent” sites for this purpose.

Standard fixed and mobile sites.

All other areas of Denbighshire

The standard site pays a reduced fee to recognise that trading in these areas are less lucrative and may face additional costs compared to the prime sites.

Special/seasonal event consent

Maximum of two days (fixed single site/sole trader)

Temporary, travelling or seasonal commercial markets

Maximum of three days (fixed site/multiple traders) Consideration may be given to additional days on a case by case basis.

7.2 In addition to the above, the following criteria will need to be met before any Street Trading Consent will be issued:

Prevention of obstruction or danger to road users

- To be sited in accordance with highways legislation as appropriate, such that no obstruction is caused to highway users or to adjacent properties
- The position of any vehicle/stand must be such that it does not encourage children to cross any road unsupervised.
- The trader shall not place on the street or in a public place any furniture or equipment other than as permitted by the consent and he/she must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
- Operator to cease trading, if asked to by an Officer of the Highways Authority or the emergency services or any relevant Authorised Officer of the Council.

Prevention of nuisance or annoyance

- Traders and their assistants employed by them shall ensure the public are treated fairly and with courtesy at all times.
- No music or other broadcasts to be made from the Consent site other than with the permission of the Licensing Authority,
- The trader must not cause or allow to be caused any damage to the street surface, street furniture, lighting and landscaping within the permitted area and will be responsible for the making good of any such damage
- Must not cold call at dwellings within a Cold Calling Controlled Zone
- Noise nuisance must not be caused e.g. from portable generators, chimes, klaxons speakers, under no circumstances will public address systems be permitted (unless part of a commercial or traveling market).

Hygiene/waste/H&S

- All staff must be suitably trained in accordance with relevant Food Safety legislation. Evidence of Food Hygiene training must be available for examination by an authorised officer of the Council at any time when the unit is trading.
- The business must comply at all times with relevant food safety and standards legislation, together with applicable health and safety legislation
- The premises must be currently registered or approved by the Food Authority
- The food premise must have a Food Hygiene Rating of 5 (Very good).
- A refuse contract must be entered into where refuse is likely to be generated, or other suitable and legal waste disposal arrangements must be in place, including waste carriage
- Suitable numbers of Litter bins must be provided and litter collected as appropriate where litter is likely to be generated by customers.

Sustainability

- In line with Denbighshire County Council's Climate Change Commitment and the Well-being of future Generations (Wales) Act 2015 applicants must consider.

- The use of electric, hybrids or low emission vehicles and energy production.
- Providing locally sourced sustainable produce and goods.
- The use of recyclable materials and consumables.

Suitability of the applicant

7.3 All applicants for a Consent must produce upon application:

- valid basic DBS check (issued within 1 calendar month prior to application)
- proof of identity and address (DVLA Driver Licence, household bill, Passcard, Passport, bank statement).
- Valid immigration/right to work in the UK documentation as necessary
- 1 passport size photograph.
- A completed application form
- Proof of Public Liability insurance (£5 Million)
- Food premises registration (if providing food)
- Photographs and or clear drawings of expected livery.
- List (including street name) or map of all proposed trading locations
- Valid Gas safety certificate if using LPG for cooking

Please refer to Appendix F for guidance on how we use your information or contact us: Email: dataprotection@denbighshire.gov.uk

Tel: 01824 706000

7.4 When considering whether an applicant is suitable to hold a street trading consent or to work in connection with one, the Council will consider any unspent convictions and will take into account the following:

- Whether the conviction/incident is relevant
- The seriousness of the offence/incident
- The length of time since the offence/incident occurred
- Whether there is a pattern of offending behaviour or similar conduct
- Whether that person's circumstances have changed since the offence/incident occurred, and
- The circumstances surrounding the offence/incident and the explanation offered by the applicant.

7.5 An application may be refused if the applicant is unsuitable to hold the consent for any reason made known to the Head of Service who will decide if the applicant is a fit and proper person.

7.6 Consent cannot be issued to a person under the age of 18 years

8 Enforcement

8.1 To achieve compliance with legislation all enforcement will be carried out in accordance with relevant legislation and the service Enforcement Policy.

8.2 Conditions may be attached to street trading consents detailing the holder's responsibilities to maintain public safety, avoid nuisance and preserve the general amenity of the locality.

8.3 All traders must ensure that the consent authorisation is clearly displayed to the public at all times.

8.4 All traders and assistants must clearly display on their person their trader and trader assistant ID badge at all times when trading.

8.5 Failure to comply with any condition may lead to the revocation of consent.

8.6 It is an offence to carry out street trading without the consent of the Council and any person convicted of such an offence shall be liable to a fine not exceeding £1,000. This will include any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the certificate.

9 Fee Structure

9.1 The Head of Service has delegated authority to review the fee structure and set fees annually. The fee structure is set out at Appendix B (*to be determined*). Applicants will be invoiced for the fee once the application has been determined.

10 Delegation of Functions

10.1 Applications for Consent are delegated to the Head of Service. However, the power to amend street trading designations or to determine contentious applications lies with the Council's Licensing Committee.

10.2 The Head of Service has delegated the following functions to Officers:

- Issue Consents and attach such conditions that are deemed necessary under the Local Government (Miscellaneous Provisions) Act 1982.
- Refer any application to the Council's Licensing Committee for determination. Where an application is referred to the Committee, each application will be determined on its own merit, along with the contents of the DBS check.. Members of the Committee will consider all information attached to the application.
- Refuse any application for Consent that:
 - In the opinion of the Head of Service does not comply with the Council's conditions and polices.
 - Where a similar application has been refused by the Committee in the previous 2 years.
 - Refuse an application or renewal for any reasonable reason.

10.3 The Head of Service may:

Where deemed appropriate, reduce the applicable fee or amend any general or specific condition for any application.

11 Renewals

11.1 Street Trading Consents are issued for a period of up to one year from the date of grant (excluding 11.4).

11.2 Wherever practical on renewal, consent will be issued where appropriate to the present Consent holder.

11.3 Applicants wishing to renew their Consent must submit their application and pay the relevant fee at least one month prior to the expiry of their current consent.

11.4 Consents (sites/pitches/routes) cannot be transferred, sold or sub contracted.

12 Decisions

12.1 Each application will be taken on merit, along with the contents of the Disclosure of Convictions submitted with the application

12.2 Following the determination of an application the Council will notify the applicant of the decision in writing as soon as possible.

12.3 There is no statutory right of appeal against refusal to issue a Street Trading Consent.

13 General

13.1 This policy will complement and inform other Council initiatives including those with regard to street markets and life in the public realm.

13.2 This policy will inform the detailed conditions attached to every Street Trading Consent.

13.3 This policy will be applied in a manner that is consistent with the Council's equalities policies.

13.4 The Authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds.

13.5 The Authority collects, process and stores some personal data in order to process your application. Please refer to Appendix G for further details on how we process your information.

13.6 At all times, each application will be determined on its own merit.

13.7 Every vehicle, van, trailer, stall or other device to be used for the proposed street trading activity must be inspected by an Authorised Officer prior to any trading taking place.

14 Review of the Policy

14.1 This Policy will be reviewed every 3 years. As well as the 3 yearly reviews, the policy will continue to be evaluated and may be updated at any time. Any changes to this policy must be agreed by the Licensing Committee, unless this function is delegated to an appropriate officer.

14.2 The determination of the fee structure is delegated to the Head of Service and will be reviewed annually.

14.3 Street trading Consent application fees and charges are not refundable.

Licensing (Street Trading)
PO Box 62
Ruthin
Denbighshire
LL15 9AZ

Email: licensing@denbighsire.gov.uk

Appendix A

Licensing (Street Trading)
PO Box 62, Ruthin
Denbighshire LL15 9AZ

Email: licensing@denbighshire.gov.uk

PROHIBITED STREETS

The council has resolved to adopt Part III of the local Government (Miscellaneous Provisions) Act 1982, as it relates to street trading.

The Council has designated streets within the County as "Prohibited Streets" in accordance with Schedule 4, paragraph 2 of the above Act. If designated, traders, as defined by the Act, trading on these prohibited streets will be liable to legal action.

The resolution is detailed below:-

"On the 15th July 2002 Members resolved to adopt Part III of the above Act and designated the following streets as prohibited streets by provisions of Schedule 4, paragraph 2 of the Act, which will come into force on the 19th August 2002."

RHYL

Abbey Street
Alexandra Road
Aquarium Crescent
Aquarium Street
Balmoral Grove
Bath Street
Bedford Street
Beechwood Road
Bodfor Street
Brighton Road
Butterton Road
Chester Street
Clwyd street
Conwy Street
Crescent Road
Crescent Square
East Parade - **Part**
Edward Henry Street
Elwy Street
Emlyn Grove
Fairfield Avenue
Glanglasfor
Gordon Avenue
Gronant Street
Grosvenor Road
High Street - **Part**
Hope Place
John Street
Kinmel Street
Lake Avenue
Marine Drive
Market Street - **Part**

Marsh Road
Maude Street
Morlan Park
Morley Road
North Avenue
Old Golf Road
Osborne Grove
Palace Avenue
Paradise Street
Quay Street
Queen Street
River Street
Russell Gardens
Russell Road
Sandringham Avenue
South Avenue
St Asaph Street
Sussex Street - **Part**
Sydenham Avenue
Tarleton Street
Thorpe Street
Vale Road
Vaughan Street
Water Street
Wellington Road
Westbourne Avenue
West Kinmel Street
West Parade - **Part**
Windsor Street

PRESTATYN

Ash Grove
Barkby Avenue
Bastion Gardens
Bastion Road
Beach Road East
Beach Road West
Bridge Road
Ceg Y Ffordd
Church Lane
Eden Avenue
Fern Avenue
First Avenue
Gas Works Lane
Grosvenor Road
High Street
Highbury Avenue
Kings Avenue
Lon Alwen
Maes y Groes
Marine Road
Meliden Road
Nant Hall Road
Penisadre
Sandy Lane
Sea Road
Second Avenue
Station Road
The Mail
Third Avenue
Trevor Road
Victoria Avenue
Victoria Road

Marlborough Grove

Victoria Road West

Consent Streets Permit Required

East Parade- ***Part***
East Promenade - ***Part***
High Street - ***Part***
Market Street - ***Part***

Sussex Street - ***Part***
West Parade - ***Part***
West Promenade - ***Part***

Appendix B

Licensing (Street Trading)
PO Box 62,
Ruthin, Denbighshire LL15 9AZ

Email: licensing@denbighsire.gov.uk

Fee Structure proposed from (DATE)

Prime Fixed Site

Fixed Consent

Annual	£
--------	---

Standard Site (fixed or mobile)

Fixed Consent

Annual	£
--------	---

Mobile Consent

Annual	£
--------	---

Commercial/Travelling Market

Per day	£
---------	---

Special Occasion/Seasonal

Per day	£
---------	---

Trader/ Assistant /or Replacement ID	£
--------------------------------------	---

Replacement Consent/Licence (paper)	£
-------------------------------------	---

Trader/ Assistant /or Replacement ID	£
--------------------------------------	---

Pre application Check	£ (no guarantee of consent being given)
-----------------------	---

Pre application Advice	£ (inc. pre application Check)
------------------------	--------------------------------

Replacement Vehicle Sign	£
--------------------------	---

Appendix C

Licensing (Street Trading)
PO Box 62, Ruthin, Denbighshire LL15 9AZ

Email: licensing@denbighsire.gov.uk

Local Government (Miscellaneous Provisions) Act 1982 – Schedule 4

APPLICATION FOR A STREET TRADERS CONSENT

Personal Details: (permit holder)

1	Applicant full name and date of birth		
2	Applicant home address (inc. postcode)		
2	Applicants buisness name		
4	Applicants buisness address (inc. postcode)		
5	Email		
6	Business web/social media sites		
7	Home Mobile		
8	DBS	Date of issue	Reference No
		Approved By	

Do you intend to trade from?

Prime site

Fixed Pitch

Standard site

Fixed Pitch Mobile

Commercial/Traveling Market

Fixed Pitch

Special Occasion/Seasonal

Fixed Pitch

9	Trading Site (give street names and precise location)	
10	Trading name displayed on site or vehicle	(please include photographs and details of any artwork or livery)
11	Proposed Trade Days	
12	Proposed Trade Times (24hr format)	
13	Goods or Articles to be Sold – state type, standard and method of presentation of goods	
14	Type of vehicle / stall / unit	(please include photographs and details of any artwork or livery)
15	Vehicle registration number	
16	Vehicle / stall / unit - height	
17	Vehicle / stall / unit - width	
18	Vehicle / stall / unit – length	
23	Permissions relevant to my application	(please include a copy of certificate/s)

You will need to contact the appropriate sections of Denbighshire County Council to obtain any permissions relevant to your application as detailed below:

Trading on Denbighshire owned land: catherine.jonesblack@denbighshire.gov.uk
Trading on Denbighshire Streets: streetworks@denbighshire.gov.uk
Planning permission: planning@denbighshire.gov.uk
Food Registration Enquiries: Food.Safety@denbighshire.gov.uk
Alcohol or Late Night Refreshment Licensing@denbighshire.gov.uk

Some events may require a Temporary Events Notice (such as those involving Sale of Alcohol, Late Night Refreshment or Entertainment) You can apply via this link:

<https://www.denbighshire.gov.uk/en/licences-permits-and-trading-standards/entertainment-and-alcohol/tens.aspx>

If you are trading within 15 metres of a street, road or car park, there is a presumption that you will need a street trading consent subject to the other exemptions applying. If

you trade from a position of more than 15 metres from a street, road or car park, please contact the Licensing Service to establish whether a Consent is required as each case is judged on its own set of circumstances. Such circumstances, could, for example be, a staff car park to which the general public have no access.

Have you ever been refused a Street Traders Licence or Consent by this or any other Local Authority?

YES/NO, If yes, give dates and details below, (further information).

I declare that to the best of my knowledge and belief, the answers given are true and I realise that information disclosed in this application form may be made available to other authorised agencies.

If Consent is granted, I undertake to comply with the conditions attached to the grant of the licence, and also comply with the Food Safety Act 1990, where appropriate, and to any other legislative requirements. I also agree to provide a waste receptacle for napkins, etc, which I will remove at my own cost each day.

I UNDERSTAND that if I knowingly make a false statement I shall be guilty of an offence and liable to prosecution and that my licence, if granted, may be suspended or revoked.

Signature: _____ Print name: _____

Date: _____

Payment Method:

The Licensing Authority will raise an invoice once the application has been determined and authorisation granted.

Any further Information relevant to the application

Appendix D

Licensing (Street Trading)
PO Box 62, Ruthin, Denbighshire LL15 9AZ

Email: licensing@denbighsire.gov.uk

Local Government (Miscellaneous Provisions) Act 1982 – Schedule 4

APPLICATION FOR A STREET TRADERS ASSISTANT

Personal Details:

1	Full name and date of birth		
2	Home address (inc. postcode)		
3	Home Phone Number		
	Mobile Phone Number		
4	Declaration of Employer: I confirm that I have carried out the necessary checks to ensure that the applicant has all the necessary documentation to carry out the tasks required and to work in the UK	Yes	No
		Signature of Employer:	

Have you ever been refused a Street Traders Licence or Consent by this or any other Local Authority?

YES/NO, If yes, give dates and details below, (further information).

I declare that to the best of my knowledge and belief, the answers given are true and I realise that information disclosed in this application form may be made available to other authorised agencies.

If Consent is granted, I undertake to comply with the conditions attached to the grant of the licence, and also comply with the Food Safety Act 1990, where appropriate, and to any Regulations made hereunder. I also agree to provide a waste receptacle for napkins, etc, which I will remove at the cost of my employer each day.

I UNDERSTAND that if I knowingly make a false statement I shall be guilty of an offence and liable to prosecution and that my licence, if granted, may be suspended or revoked.

Signature: _____ Print name: _____

Date: _____

Payment Method:

The Licensing Authority will raise an invoice once the application has been determined and authorisation granted.

Any further Information relevant to the application

NOTES/CHECKLIST

- Consent can be held by more than one person, providing that person(s) has a business interest and authority to manage the street trading site. Once granted, all Consent holders will be held equally responsible for any breach of terms of conditions of a Street Traders Consent.
- Applicants must not be under the age of 18 years.
- Each assistant must complete an Assistant's application form which can be obtained from the Licensing Section. Street trader/assistant ID badges are £- ----each.
- The loss of a trader/assistant ID badge must be reported immediately (replacement badges will be charged at £----- per badge).
- Applicants must each submit a colour, recent passport type photograph (without hat or sunglasses) with their application.
- Applicants for temporary, travelling or seasonal markets must have a single point of contact (applicant) include the number of stalls and the type of goods to be sold (any sale of alcohol must be authorised by either a Premises Licence or Temporary Event Notice).
- **Please ensure you have read and understood the guidance notes. Before you submit your application, tick the following boxes to ensure you have all the necessary documents. Any omissions will result in the return of your application.**

Check List

<i>Completed application form signed by assistant</i>	
<i>Proof of identity and address</i>	
<i>1 passport size photographs</i>	
<i>Renewals:</i> <i>Consent Number and Expiry Date.</i> <i>Original Consent (licence)</i>	

Glossary of Terms used in this Policy

The following definitions apply when used within this Street Trading Consent Policy:

The Council	Denbighshire County Council
Street Trading	Defined in Paragraph 1 of Schedule 4 of the (Miscellaneous Provisions) Act 1982 as “the selling or exposing or offering for sale of any article (including a living thing) in a street”.
Street	Any road, footway, beach or other area to which the public have access without payment; and a service area as defined in Section 329 of the Highways Act 1980.
Consent Street	A street in which trading is prohibited without the consent of Denbighshire County Council.
Prohibited Street	A street in which street trading is prohibited.
Consent Holder	The person (or persons) to which consent to trade has been granted by Denbighshire County Council.
Static Street Trader	Trader granted permission by Denbighshire County Council to trade from a specified position.
Mobile Street Trader	Trader who moves from Street to Street.
Authorised Officer	An officer authorised by Denbighshire County Council to act in accordance with the provisions of The Local Government (Miscellaneous Provisions) Act 1982.
Commercial Market	A gathering of stalls for the sole purpose of profit for the organiser or stall holders.

Appendix F

Licensing (Street Trading)
PO Box 62
Ruthin, Denbighshire LL15 9AZ

Email: licensing@denbighsire.gov.uk

How we use your information - Privacy notice for Licensing

The proper handling of personal information by Denbighshire County Council is very important to the delivery of our services and maintaining public confidence.

Personal data is any information that relates to a person who can be directly or indirectly identified from the information. The terms 'information' and 'personal data' are used throughout this privacy notice and have the same meaning.

To ensure that the Council treats personal information correctly, we seek to adhere in full to the requirements of Data Protection legislation.

This privacy notice has therefore been produced to explain as clearly as possible what we do with your personal data.

1. The purposes for which we use your personal data

The information we collect about you is used to:

- Process and decide on licence/permit applications
- Process notices
- Provide public register information
- Investigate complaints
- Conduct regulatory enforcement activity, including with partner agencies

The legal basis for the processing of your information is to comply with our legal obligations under the following:

- Licensing Act 2003
- Gambling Act 2005
- Local Government (Miscellaneous Provisions) Act 1976
- Town Police Clauses Act 1847
- Local Government (Miscellaneous Provisions) Act 1982
- House to House Collections Act 1939
- Police, Factories etc. (Miscellaneous Provisions) Act 1916
- Hypnotism Act 1952

If you do not give us the information we need when we ask for it, this may result in the Council being unable to determine your licence or permit application, process your notice or comply with our statutory obligations.

2. What type of information do we use?

We collect the following types of personal data about you to deliver this service, depending on your circumstances:

- Name
- Address
- Date of birth
- Gender
- Unique reference number
- Telephone number
- Email address
- Bank/payment details
- Employment and education details
- National Insurance details
- Images/photographs
- Vehicle registration number
- Information about your health
- Your racial or ethnic origin
- Criminal convictions and offences

3. Do we use information received from other sources?

To provide this service, we collect information directly from you but also receive information from the following external sources, depending on the type of licence:

- The Fire & Rescue Service
- The Police
- Disclosure & Barring Services
- NHS local health boards
- Immigration services
- Foreign Embassies if you are a foreign national or have lived abroad
- National Fraud Initiative
- National Register of Taxi Drivers
- Department for Work & Pensions
- HM Revenue & Customs
- DVLA
- Other local authorities

We also receive information from the following Council services:

- Environmental Health
- Trading Standards
- Planning
- Children's Services
- Resources
- Highways

- Events Safety Advisory Group
- Chief Executive's department
- Legal Services

4. Transferring your information abroad

Your information will not be transferred outside the United Kingdom.

5. Who has access to your information?

We share your information with the following recipients depending on your circumstances:

- The Fire & Rescue Service
- The Police
- Disclosure & Barring Services
- NHS local health boards
- Immigration services
- Foreign Embassies if you are a foreign national or have lived abroad
- National Fraud Initiative
- National Register of Taxi Drivers
- Department for Work & Pensions
- HM Revenue & Customs
- DVLA
- Other local authorities

Where an application or issue has to be considered by the Council's Licensing Committee or a sub-committee information about you will be heard in public.

There are also other specific situations where we may be required to disclose information about you, such as:

- Where the Council is required to provide the information by law
- Where disclosing the information is required to prevent or detect a crime
- Where disclosure is in the vital interests of the person concerned

6. How long we will keep your information

We will keep your information for as long as the licence exists or up to 6 years after registration or entitlement lapses or in the case of authorisations for larger events we may keep the information for up to 20 years, in accordance with the Council's Retention Guidelines.

7. Your Data Protection rights

You have the right to:

- Obtain access to the personal data that the Council is processing about you
- Have any inaccurate or incomplete information rectified (corrected)
- Withdraw your consent to processing, where this is the only basis for the processing

- Make a complaint to the Information Commissioner's Office (ICO), the independent body in the UK which protects information rights

In some circumstances, you may have the right to:

- Object to the processing of your personal information
- The erasure of your personal data
- Restrict the processing of your personal information
- Data portability

8. Contact details

For more information regarding this privacy notice and your rights, please contact:

Data Protection Officer
Denbighshire County Council
PO Box 62
Ruthin
Denbighshire
LL15 9AZ

Email: dataprotection@denbighshire.gov.uk
Tel: 01824 706000

Contact details for the Information Commissioner's Office along with further guidance on Data Protection legislation can be found on the ICO website: www.ico.org.uk

This page is intentionally left blank

By virtue of paragraph(s) 12, 13 of Part 4 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 12, 13 of Part 4 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 12, 13 of Part 4 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank