

**Report of** Taxi & Private Hire Licensing Manager

**Report to** Licensing Committee

**Date:** 5 March 2019

**Subject:** Taxi & Private Hire Licensing – New Statutory Guidance from the Department of Transport

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

- 1 This report presents to committee members new Statutory Guidance on and consultation by the Department of Transport (DfT) on proposed taxi and private hire licensing policies.
- 2 The new guidance responds to the earlier DfT Task and Finish working group, and makes a number of recommendations for local authorities to adhere to in developing and reviewing their taxi and private hire licensing policies.
- 3 While the guidance does not change the underlying UK law, it provides very strong guidance for every licensing authority in England and Wales.

### Recommendations

1. That committee members note the purpose and content of the information in this report.
2. That committee members read the DfT Statutory Guidance and make any further recommendations for the council's response to the consultation, and review of policies.

## **1 Purpose of this report**

- 1.1 To inform committee members of the start of a consultation in England and Wales on a set of new Statutory Guidance for licensing authorities.
- 1.2 To highlight to committee members the areas where the new guidance would have significant impact on the council's policies and the regional West Yorkshire and York policy review.
- 1.3 To seek member views on the response to the consultation and implications for current and planned policy reviews.

## **2 Background information**

- 2.1 In 2017, the Department for Transport established a Task and Finish Group, with a remit to
  - consider evidence relating to the adequacy of current taxi and PHV licensing authority powers, as set out in legislation and guidance, making recommendations for actions to address any priority issues identified. Specifically:
  - identify the current priority concerns regarding the regulation of the sector, based on evidence of impact and scale across England;
  - consider, in particular, the adequacy of measures in the licensing system to address those issues;
  - consider whether it would advise the Government to accept the recommendations made in the Law Commission's May 2014 report on taxi and PHV legislative reform relevant to the issues, and;
  - make specific and prioritised recommendations, legislative and non-legislative, for action to address identified and evidenced issues.
- 2.2 Leeds City Council invited the chair of the group, Prof Mohammed Abdel-Haq, to visit Leeds to see the current challenges and licensing and enforcement responses of local authorities. The chair invited the Taxi and Private Hire Licensing Manager to give evidence to the group in January 2018.
- 2.3 The Task and Finish Group reported their recommendations in October 2018. The DfT has now published Taxi and Private Hire Vehicle Licensing: Protecting Users, Statutory Guidance for Licensing Authorities, attached at **Appendix 1**. The DfT has published plans to consult on the Statutory Guidance until 22 April.

## **3 Main issues**

### **Statutory Guidance**

- 3.1 Statutory Guidance does not alter the key legislation, nor does it make any new legislation. However, it is the strongest possible guidance central government can issue in guiding licensing authorities to review and update their policies.
- 3.2 The guidance advises every local authority to publish consideration of each of the recommendations contained in the guidance. It also advises licensing authorities

that any failure to follow very closely the guidance without sufficient justification could be detrimental to the licensing authority when challenged.

### Areas of Statutory Guidance

3.3 The guidance identifies 30 specific areas of guidance, summarised in the table below.

1	Single taxi and private hire licensing policy
2	Fit and proper person test
3	Administration of the licensing framework and decision making, including officer and member roles
4	Whistleblowing
5	Implementing changes to licensing policy and requirements
6	Disclosure and Barring Service (DBS)
7	DBS update service
8	Licensee self-reporting
9	Referrals to DBS and police
10	Overseas convictions
11	Conviction policy
12	Common Law Police Disclosure
13	Other information
14	Multi agency safeguarding hub
15	Complaints against licence holders
16	Duration of licences
17	Safeguarding awareness
18	Other forms of exploitation / 'County lines'
19	Language proficiency
20	Enforcement
21	Suspension and revocation of driver licences
22	Criminal checks for PHV operators

23	PHV Operators – ancillary staff
24	PHV Operators – use of passenger carrying vehicles (PCV) licensed drivers
25	PHV Operators – record keeping
26	In vehicle visual and audio recording - CCTV
27	Stretched limousines
28	Consultation at the local level
29	Convictions guidance
30	Staying safe – guidance for passengers

3.9 Many of the recommendations in the Statutory Guidance recommend a significant change from the policies and arrangements which are in place in Leeds, and in many other licensing authorities. Some of the recommendations of the Task and Finish Group, such as where journeys should start or finish, or on powers to cap the number of drivers or vehicles, are not included in the guidance.

3.10 Many of the recommendations are very likely to affect how the council reviews existing policies and works with neighbouring authorities to align/harmonise some key policies.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 As proposed Statutory Guidance, the council will complete the consultation, and will let stakeholders know about the consultation, and encourage them to complete it. .

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 Equality and Cohesion Screening Assessments are carried out on the policies agreed at Licensing Committee and policy changes made under the scheme of sub delegation. The DfT has completed its own impact assessment on the Statutory Guidance.

### **4.3 Council policies and City Priorities**

4.3.1 Taxi & Private Hire Licensing policies contribute to the following aims:

#### **Best Council Plan**

#### **Towards being an Enterprising Council**

#### **Our Ambition and Approach**

**Our Ambition** is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

**Our Approach** is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

### **Our Best Council Outcomes**

Make it easier for people to do business with us.

### **Our Best Council Objectives**

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs;
- Boosting the local economy; and
- Generating income for the council.

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time; and
- Improving customer satisfaction.

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds;
- Effectively tackle and reduce anti-social behaviour in communities;
- Safeguarding children and adults at risk:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and adults at risk across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or adults at risk.

## **4.4 Resources and value for money**

4.4.1 The Taxi and Private Hire Licensing service is currently cost neutral to the council and by virtue of the Local Government (Miscellaneous Provisions) Act, 1976, raises its own revenue by setting fees to meet the cost of issuing and administering licences.

## **4.5 Legal Implications, Access to Information and Call In**

4.5.1 There are possible legal implications arising from this Statutory Guidance, concerning the key legislation for taxi and private hire licensing, which is Local Government (Miscellaneous Provisions) Act 1976.

4.5.2 Legal opinion has been sought on the Local Government (Miscellaneous Provisions) Act 1976 section 61, which refers to licensing decision to refuse to renew a licence on two grounds:

- a) based either on new evidence or conviction involving dishonesty, indecency or violence, since the grant of the licence .

b) any other reasonable cause.

It is evident that the suitability policy would in some cases lead to the refusal to renew a licence not based on behaviours since the previous grant of the licence, but based on the new suitability policy/statutory guidance requiring the council to view previous behaviour, evidence or conviction in a new light.

## **4.6 Risk Management**

4.6.1 The aim of the new guidance is to reduce the risk posed by licence holders to the travelling public, and to increase the confidence of the public that their taxi and private hire drivers can be trusted.

## **5 Conclusions**

5.1 The report has advised committee members of the content of new statutory guidance on taxi and private hire licensing, and the start of a national consultation on the guidance.

5.2 The report has provided initial summaries of the 30 areas where the guidance recommends that authorities take a specific approach, and be prepared to justify in detail why that approach should not be taken.

## **6 Recommendations**

6.1 That committee members note the purpose and content of the information in this report.

6.2 That committee members read the DfT Statutory Guidance and make any further recommendations for the council's response to the consultation, and review of policies.

## **7 Background documents**

**Appendix 1 Taxi and Private Hire Vehicle Licensing: Protecting Users** Statutory Guidance for Licensing Authorities

**Appendix 2 Report on Task and Finish Group recommendations to Licensing Committee, November 2018**