


Appendix 1 Leeds City Council self-assessment against Statutory Guidance

Guidance	Leeds City Council self-assessment, January 2021	RAG
Section 3 Administering the Licensing Regime		
<p>Licensing Policies</p> <p>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.</p> <p>3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public</p> <p>3.4 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.</p> <p>3.5 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 to advise them.</p>	<p>Under way. The council has many separate vehicle, driver, operator, policies and conditions. An exercise is under way to summarise the current purpose and content of existing policies, which would not require additional consultation.</p> <p>In place.</p> <p>In place, and recent performance and developments are examined in the Annual licensing Report.</p> <p>In place.</p>	<p align="center">Amber</p>
<p>Duration of licences</p> <p>3.6 The Local Government (Miscellaneous Provisions) Act 1976 sets a standard length at three years for drivers and five years for 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</p>	<p>In place, but capacity to improve. Although applicants are always offered the longer durations first, some express a preference for a shorter licence period and lower cost.</p>	<p align="center">Amber</p>

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<p>one or where required or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.</p>	<p>No probationary licences are issued.</p>	
<p>Whistleblowing</p> <p>3.8 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.</p> <p>3.10 Local authorities should ensure they have an effective 'whistleblowing' policy and that all staff are aware of it.</p>	<p>In place.</p> <p>In place.</p>	<p>Green</p>
<p>Consultation at the local level</p> <p>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, women's groups, local traders, and the local multi-agency safeguarding arrangements.</p> <p>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.</p>	<p>In place. The service has a detailed stakeholder list, which is regularly reviewed and updated, and includes details of more than 95 groups and organisations.</p> <p>In place. The five West Yorkshire authorities and City of York work closely together to identify concerns and issues from current policies and planned changes. In 2020, this group has met virtually, and has been solely through officers than councillors, but parallel officers and councillor meetings should be resumed in 2021.</p>	<p>Green</p>

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<p>Changing licensing policy and requirements</p> <p>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. It is proportionate to allow those that would not meet the new criteria to have the opportunity to adapt or change their vehicle, and the same approach should be taken to driver licence changes. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.</p> <p>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.</p>	<p>In place.</p> <p>In place.</p>	<p>Green</p>
<p>Section 4 Gathering and Sharing Information</p>		
<p>The Disclosure and Barring Service</p> <p>4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales, and maintains the lists of individuals barred from working in regulated activity with children or adults. 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.</p>	<p>In place.</p>	

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4.4 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.		Green
<p>The Disclosure and Barring Service Update Service</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>In place. The council currently checks the DBS at application, and for licence holders every 12 months, and is planning to check every 6 months.</p> <p>In place, but capacity to improve. The council still requests many DBS checks individually, rather than using the MSCF. A technical project is underway.</p>	Green
Common Law Police Disclosure		

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<p>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.</p> <p>4.10 Common Law Police Disclosure 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.</p> <p>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.</p>	<p>In place. Close working with West Yorkshire Police in place. Both the council and police are reviewing and updating the current Information Sharing Agreement to clarify and speed up disclosure from the police to the council</p>	Green
<p>Licensee self-reporting</p> <p>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. 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.</p> <p>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</p>	<p>Largely in place, but existing policies give licence holders 72 hours , not 48, to notify the council, and some inconsistency between conditions for hackney carriage and private hire drivers. A review is under way.</p> <p>In place.</p>	Amber

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<p>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 nonconviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.</p> <p>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.</p> <p>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.</p>	<p>and police are reviewing and updating the current Information Sharing Agreement to clarify and speed up disclosure from the police to the council and vice versa.</p> <p>Under way. The next Information Sharing Agreement will include specific protocol for the council informing the police of a revocation or refusal on grounds of public safety.</p>	Amber
<p>Sharing licensing information with other licensing authorities</p> <p>4.20 Obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. 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.</p>	<p>In place.</p>	

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<p>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." 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 National Anti-Fraud Network national register (NR3) of taxi and private hire vehicle driver licence refusals and revocations should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of nondisclosure of relevant information by applicants.</p> <p>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.</p> <p>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.</p> <p>4.24 If notification 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,</p>	<p>NR3 Policy in place from November 2020. More work required to make sure that checks are made of NR3 for every renewal application, every application, and NR3 is updated of the council's legacy of prior revocations and renewals.</p> <p>In place.</p> <p>The NR3 policy has been written based on the LGA and Information Commissioner's guidance</p>	<p>Amber</p>

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<p>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. 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.</p> <p>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'.</p>	<p>Under way, but will date from the new policy.</p>	<p style="background-color: yellow;">RAG</p>
<p>Multi-agency Safeguarding Hub (MASH)</p> <p>4.26 MASHs 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.</p> <p>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.</p> <p>4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH - the sharing of necessary and relevant information</p>	<p>In place, but separate arrangements for Adults and Children.</p>	<p style="background-color: #90EE90;">Green</p>

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<p>between stakeholders. 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.</p>	<p>In place. Specific arrangements for Local Authority Designated Officer role for children and young people.</p>	
<p>Complaints against licensees</p> <p>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 compliant, 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.</p> <p>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.</p> <p>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</p>	<p>In place.</p> <p>In place.</p> <p>In place.</p>	<p>Green</p>

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<p>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.</p> <p>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.</p> <p>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.</p>	<p>In place.</p> <p>In place.</p>	
<p>Overseas convictions</p> <p>4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, 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</p> <p>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</p>	<p>In place, but the council has an arguably stronger approach. The council does utilise the Certificate of Good Character from overseas, but the system has shown to be weak for some countries. In these cases, the council also utilises the</p>	Green

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of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits.	Statutory Declaration, whereby an individual (usually a solicitor) provides a measure of independent assurance about the individual's identity and character.	
Decision making		
<p>Administration of the licensing framework</p> <p>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.</p> <p>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.</p>	<p>In place.</p> <p>In place. The Covid pandemic has significantly impacted on the authority's (ring-fenced) taxi and private hire licensing budget. A fee review will be required if the council is unsuccessful in claiming for lost licensing income.</p>	Green
<p>Training decision makers</p> <p>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</p>	<p>In place. Annual training of licensing committee members. Officer training provided by Institute of Licensing (IoL),</p>	

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<p>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.</p> <p>5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>	<p>National Association of Licensing and Enforcement Officers (NALEO).</p> <p>Staff training in place, but will be reviewed against statutory guidance.</p> <p>In place.</p>	<p>Green</p>

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<p>The regulatory structure</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • 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. 	<p>In place, but does not operate in the way the DfT guidance suggests. The council’s licensing committee does not discuss individual licensing decisions, but sets the policy.</p> <p>The scheme of sub-delegation sets out the respective investigative and decision making roles accorded to officers working in the Taxi and Private Hire Licensing service. This is different from the function for entertainment licensing decisions, whereby a licensing sub board makes decisions.</p> <p>The national guidance of councillors making decisions, does not address the scale and scope of licensing decisions required of an authority of the size of Leeds, with a licensing committee of 15 members:</p> <ul style="list-style-type: none"> • Over 6000 driver applications and renewals a year; • Over 5000 vehicle applications and renewals a year; • Between 40 and 50 operator applications and renewals a year; • Over 200 drivers suspended a year; 	Red

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<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<ul style="list-style-type: none"> • Over 100 vehicles suspended a year; • Around 40 licences refused or revoked a year; • Around 35 prosecutions a year; and around 20 appeals against suspensions or revocations a year. <p>Leeds practice has been for the separation between investigator and decision maker to be maintained by officers fulfilling distinctly separate roles. This may not be possible or practical in other licensing authorities. Officers establish the facts and evidence, including interview. Summarised in an Officer Report.</p> <p>Managers make a licensing decision based on the evidence in the report, and focusing on public safety. There is a fortnightly case review meeting to decide on borderline cases, or where a decision may be made that departs from the council's policy based on the merits of the case.</p> <p>Immediate suspension policy in place, with aim of suspending the licence holder on grounds of public safety within 24 hours.</p>	
Fit and proper test		

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<p>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:</p> <p style="padding-left: 40px;">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?</p> <p>5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.</p> <p>5.14 Licensing authorities have to make difficult decisions but 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.</p>	In place.	Green
<p>Criminal convictions and rehabilitation</p> <p>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</p>	In place. Working group being assembled to discuss specific issue of driving points of seven or above points. Report on decisions made over the first 12 months of the Suitability and Convictions Policy in February 2021.	

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<p>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.</p> <p>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.</p>	In place.	Green
Driver Licensing		
<p>Criminality checks for drivers</p> <p>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.</p> <p>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.</p>	<p>In place.</p> <p>In place, but every 12 months.</p>	

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<p>6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. 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.</p> <p>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.</p>	In place	Green
<p>Safeguarding awareness</p> <p>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.</p> <p>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</p>	In place. Safeguarding content, advice, contact numbers, and materials included in training and licensing materials. The	

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<p>other agencies. These programmes have been developed to help drivers and operators:</p> <ul style="list-style-type: none"> • 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. 	<p>council is exploring 'mystery shopping' to check driver awareness of safeguarding issues.</p>	<p>Green</p>
<p>'County lines' exploitation</p> <p>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 using dedicated mobile phone lines or other form of "deal line".</p> <p>6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport 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.</p> <p>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.</p>		<p>Green</p>

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<p>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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • 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. 	<p>In place. Driver training being refreshed and will include more recent examples of county lines.</p>	
<p>Language proficiency</p> <p>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</p>		Green

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<p>of potential exploitation through communicating with passengers and their interaction with others.</p> <p>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.</p>	<p>In place. All six West Yorkshire and York are working to the same minimum level of language proficiency in driver training/assessment.</p>	
Vehicle Licensing		
<p>Criminality checks for vehicle proprietors</p> <p>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.</p> <p>7.3 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. 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.</p> <p>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</p>	<p>In place.</p>	<p>Green</p>

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<p>decisions must be independent of a driver licence refusal and based on the appropriate information 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.</p> <p>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.</p> <p>7.6 The DBS cannot access criminal records held overseas so other checks must be consider where and applicant has lived or worked overseas.</p>		
<p>In-vehicle visual and audio recording – CCTV</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> • deterring and preventing the occurrence of crime; • reducing the fear of crime; 		

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<ul style="list-style-type: none"> • assisting the police in investigating incidents of crime; • assisting insurance companies in investigating motor vehicle accidents. <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>Under way. A working group in 2019-20 discussed possible elements of a voluntary CCTV policy meeting each of these requirements. The council plans to consult. The West Yorkshire and York authorities have identified common CCTV minimum standards as a regional priority.</p>	<p>Amber</p>

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<p>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.</p> <p>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.</p>		
<p>Stretched Limousines</p> <p>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.</p>	<p>The council has not licenced any stretched limousines because of safety concerns, primarily the lack of seatbelts, in the vehicles presented to us for inspection.</p>	

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<p>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.</p>	<p>To be considered in the next review of vehicle conditions.</p>	<p>Amber</p>
<p>Private Hire Vehicle Operator Licensing</p>		
<p>Criminality checks for private hire vehicle operators</p> <p>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. Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document, other than those relating to driving, meet the 'fit and proper' threshold.</p> <p>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</p>	<p>Enhanced DBS checks for operators in place.</p>	

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<p>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</p> <p>8.4 Refusal to license in 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 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.</p> <p>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.</p>	In place.	Green
<p>Booking and dispatch staff</p> <p>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.</p> <p>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</p>	Not in place. Will be picked up in Operator conditions review.	

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<p>vehicle operators' licence, those with a conviction for offences provided in the annex to this document, 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.</p>		
<p>Record keeping</p> <p>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:</p> <ul style="list-style-type: none"> • 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. <p>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.</p>	<p>In place.</p> <p>Some operators use a kiosk to book a vehicle. The forthcoming Operator conditions review will address if/.how kiosk bookings are managed and recorded.</p>	Green

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<p>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.</p>		
<p>Use of passenger carrying vehicles (PCV) licensed drivers</p> <p>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.</p> <p>8.16 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.</p>	<p>All bookings of larger vehicles to be reviewed as part of the Operator conditions.</p>	Amber
Enforcing the Licensing Regime		
<p>Joint authorisation of enforcement officers</p> <p>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</p>		

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<p>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.</p>	<p>In place, for West Yorkshire and York. Possible further development with other authorities, e.g. Selby, Harrogate.</p>	<p>Green</p>
<p>Setting expectations and monitoring</p> <p>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.</p> <p>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. 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.</p>	<p>In place, in licence holder handbook. Single licensing policy will set out the range of decisions open to the authority, in order to address risk and bring licence holders into compliance.</p> <p>In place.</p>	<p>Green</p>
<p>Suspension and revocation of driver licences</p> <p>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: -</p>		<p>Red</p>

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<p>(a) that he has since the grant of the licence—</p> <p>(i) been convicted of an offence involving dishonesty, indecency or violence; or</p> <p>(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;</p> <p>(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or</p> <p>(b) any other reasonable cause</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>The authority has an immediate suspension policy which sets out the circumstances of public safety when an immediate suspension may take place. The council prefers to immediately suspend and then investigate, instead of allowing licences holders to work or to immediately revoke, while not in possession of all the available information.</p>	<p>Red</p>

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<p>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.</p> <p>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.</p>	<p>The authority does suspend a number of licence holders for comparatively minor purposes to allow them to come into compliance, e.g. get a new satisfactory health certificate or undertake one element of training.</p>	
Annex – Assessment of Previous Convictions	Largely in place – separate review of minor motoring convictions.	Amber
Annex – Disclosure and Barring Service information	In place.	Green
Annex – CCTV Guidance	Under way.	Amber
Annex - Staying Safe: Guidance for Passengers	In place.	Green