

## STATUTORY GUIDANCE IN RELATION TO TAXI AND PRIVATE HIRE VEHICLE STANDARDS

### Executive Summary

The report informs Members of the new Statutory Taxi and Private Hire Vehicle Standards published on 21 July 2020 in relation to Taxi and Private Hire Vehicle Standards, and how they compare with Woking Borough Council's current standards.

### Recommendations

The Committee is requested to:

#### RESOLVE That

- (i) the content of the statutory standards be noted; and
- (ii) further reports detailing proposed changes to conditions contained in the Hackney Carriage and Private Hire Policy and any necessary consultation to comply with the statutory standards be received by the Committee as required.

The Committee has the authority to determine the recommendation(s) set out above.

**Background Papers:** Department for Transport "Statutory Taxi & Private Hire Vehicle Standards" - attached as Appendix A  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf)

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**Statutory Guidance in relation to Taxi and Private Hire Vehicle Standards**

## Statutory Guidance in relation to Taxi and Private Hire Vehicle Standards

### 1.0 Introduction

- 1.1 On 21 July 2020, the Department of Transport issued Statutory Taxi & Private Hire Vehicle Standards, referred to in this report as the 'Guidance'.
- 1.2 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 standards in this document take precedence.
- 1.3 Under the Policing and Crime Act 2017 the Secretary of State for Transport is enabled to issue statutory guidance on the exercising of taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services.
- 1.4 The Guidance is the result of extensive consultation with the police, the trade, the Institute of Licensing and others and sets out the approach that Licensing Authorities must adopt when carrying out their functions.
- 1.5 This authority has already previously implemented a number of the recommendations on its own volition, but the guidance provides the opportunity to consider further changes.
- 1.6 The introduction to the Standards states that the Department for Transport "expects these recommendations to be implemented unless there is a compelling local reason not to."
- 1.7 It is clear therefore that it is the desire of the Government to see consistent standards applied by taxi and private hire licensing authorities across the country and state within the guidance- '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'.
- 1.8 Officers believe that of the Council's current hackney carriage and private hire licensing policies will now need to be reviewed with a view to implementing any changes required in light of the recommendations set out in the Standards.

### 2.0 Report

- 2.1 The areas considered within the 'Guidance' cover a wide range subjects. These are not copied in full within the report, but members can refer to them in Appendix 'A'.
- 2.2 In many areas Woking has already meet the recommendations of the 'Guidance' and in fewer areas there is room for change.
- 2.3 The headings for each subject considered in the 'Guidance' is shown below along with a brief summary and paragraph number in the 'Guidance' document.
- 2.4 This is followed by an explanation of Woking's current position in relation to each subject.

#### **Licensing polices 3.6**

*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'.*

Woking's current position is that a full and comprehensive handbook was introduced in January 2020. This meets the standard required and is considered an open document that is added

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and amended to when necessary. With recent changes to Woking policy and practice (such as the amendments to Vehicle Policy and the changes in Delegated Authority) this is due for an update in the near future. The Guidance recommends reviewing this policy every 5 years so this is a matter for consideration.

### **Duration of licences 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.*

Woking's current position is that we have been issuing taxi and private hire drivers for a period of three years, but Operators Licences for one year. This will therefore need to be considered for amendment in line with the statutory guidance.

### **Whistleblowing 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. Local authorities should ensure they have an effective 'whistleblowing' policy and that all staff are aware of it.*

Woking's current position is that a whistleblowing policy is contained within the Councils Constitution, as well as in the Anti-Fraud and Corruption Strategy Policy.

### **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.*

Woking's current position is that matters for consultation come before this Committee to seek authority to consult so members are fully aware of proposed changes prior to consultation. When consultation has taken place it is often not just with the trade directly but also with those groups likely also to be affected by any outcome.

### **Changing licensing policy and requirements 3.14**

*Any changes in licensing requirements should be followed by a review of the licences already issued.*

Historically there has been some question over this subject, especially during the improvement towards Woking's Criminal Conviction Policy. The views and attitudes previously have suggested that if someone's licence had been issued under the old rules (for example, if their criminal conviction didn't prevent them previously, it shouldn't now – even if the policy has changed.) In following the statutory guidance it is felt that Woking should take a position that licences should be reviewed on a case by case basis to assess under any new legislation or policy as opposed to applying a blanket acceptance.

### **Gathering and Sharing Information 4.21**

*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.*

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Woking's current position is that we do make use of all available resources to meet our obligations, for example Police, HM immigration, National register of taxi drivers' revocations and refusals.

### **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.*

Woking's current position is that the DBS service is used as per the 'Guidance'.

### **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.*

Woking's current position is that all new applicants and existing drivers must provide an Enhanced DBS and have a new check every three years (i.e. at renewal). However with Statutory Guidance recommending DBS Update checks be carried out every six months (See Section 6.2 of the Guidance) an enforced requirement of the Update service will be necessary and as such the implementation of this in the near future would be something to consider going forward.

### **Common Law Police Disclosure 4.9**

*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. 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.*

Woking's current position is that despite the best efforts of individual officers and the Surrey Licensing Officers group there are difficulties in meeting this at the moment. The core issue is lack of a single point of Police contact and lack of awareness by Police on the need to update licensing authorities. The Surrey Licensing Officers group are in discussion with the Police and it is hoped that a way forward can be found in the near future.

### **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.*

Woking's current position is that the time allowed for licence holders to inform the issuing authority is five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within 3 working days of their arrest for any matter (whether subsequently charged or not).

Meeting the 'Guidance' will require a change in policy. This will be subject of liaison with other licensing authorities to ensure all are planning to amend the conviction policy so as it remains standard throughout the County and this will be reported back to this Committee with recommendations.

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### **Referrals to the Disclosure and Barring Service and the Police 4.14**

*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.*

Woking's current position is that we would follow this guidance. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role.

### **Working with the Police 4.17**

*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.*

Woking's current position is that we do as a matter of procedure inform the Police of any driver or vehicle revocations or suspensions. Should we receive any information from the Police which causes us to take any action they are also informed.

### **Sharing licensing information with other licensing authorities 4.20**

*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.*

Woking's current position is that all of the above measures are already in place and applications forms contain all the required information. The other matters mentioned within 4.22 to 4.25 concerning liaison with other authorities and use of the NR3 (national register of refusals and revocations) are also in place and well-practiced.

### **Multi Agency Safeguarding Hub (MASH) 4.26 - 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). 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.*

Woking's current position is that the Surrey Multi Agency Safeguarding Hub (MASH) is located at Guildford Police station and they have informed us of the who, when, how and why questions in relation to making contact with them to share information.

### **Complaints against licensees 4.29**

*All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. 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). 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. Licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain.*

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Woking's current position is that all the above measures are already met. All complaints are recorded on the iKen record facility, drivers are contacted and often spoken to personally regarding any complaint, the website contains details of how to make a complaint and this will be made easier to find and displayed more prominently, a notice of how to make a complaint is contained on fare chart for Hackney Carriage Vehicles, and it is a condition of their licence to display this

### **Overseas convictions 4.34 - 4.35**

*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. 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.*

Woking's current position is that all the above measures are already met in our Hackney Carriage and Private Hire Handbook, parts 4.3.4 – 4.3.5.

### **Overseas convictions 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.*

In a situation such as the above, Woking's current position would be to advise applicants to seek legal advice, but would assess the suitability based on the comparative conviction.

### **Administration of the licensing framework 5.1 – 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. 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.*

Woking's current position is that officers have powers as per the Councils Constitution whereby licensing officers have delegated power to refuse, suspend or revoke vehicle licences and the Legal Services Manager has delegated power to refuse, suspend or revoke drivers' licences.

This is a practiced system which functions well.

### **Training decision makers 5.3 – 5.5**

*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.*

Woking's current position is that we have in the past carried out training via a system of in-house training presentations. This has potential implications towards the Committees understanding of course and the Council is currently looking at improving this training by using an external training provider to ensure that the training currently on offer is sufficient to meet the 'Guidance' and look to provide a more extensive set up. It is expected that this will have

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financial costs associated however it is important to ensure that the decision makers are correctly informed of current law.

### **The regulatory structure 5.6 – 5.11**

*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. 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.*

Woking's current position is that we meet the 'guidance in this respect through the Committee structure and schemes of delegation.

### **Fit and proper test 5.12 – 5.14**

*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.*

Woking's current position is that we have within our 'policy' a guide to an individual's 'fit and proper' status which officers believe meets the Guidelines'.

### **Criminal convictions and rehabilitation 5.15 – 5.17**

*In considering an individual's criminal record, licensing authorities must consider each case on its merits. 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. Annexed to this document are the Department's recommendations on the assessment of previous convictions.*

Woking's current position is that in lieu of any national convictions guidance the Surrey Licensing Authorities worked together and produced a convictions policy which is in use County wide. The recommended policy as attached to the 'Guidance' is in many ways very similar to the one already in use in Woking and the rest of Surrey. There are differences of course and it will be appropriate to discuss this with the Surrey Licensing Officers group to assess the differences and whether to make recommendations to Committee for changes. This is likely to be subject of a future report.

### **Criminality checks for drivers 6.1 – 6.4**

*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. 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.*

*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.*

Woking's current position is that while our 'policy' covers criminality checks comprehensively it does not specifically mention that licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list. This will require amendment and will be subject of a future report.

Currently DBS checks are carried out every three years (at renewal) and as such to follow the 'Guidance' would require an amendment to the Policy to change this. Coupled with the



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implementation of the DBS Update service being a requirement, it would minimise extra burden on the drivers.

### **Safeguarding awareness 6.5 – 6.7**

*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.*

Woking's current position is that we have a safeguarding awareness course in place. This is mandatory, all existing drivers and operators have completed it and it is a condition of licensing for any new applicant to complete it prior to a licence being granted.

### **'County lines' exploitation 6.8 – 6.13**

*Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation.*

Woking's current position is that 'County Lines' awareness information which was given to the Council by the Police has been passed on to all drivers and operators.

Officers believe this is also included in the safeguarding awareness course but will check.

### **Language proficiency 6.14 – 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.*

Woking's current position is that we do not have a specific language test in place. Whilst the completion of application forms and the knowledge test itself suggest language skills which, without a basic understanding, applicants would be unable to complete the necessary forms and tests successfully. In practice, however, experience has shown that drivers who have passed the knowledge test and signed legal renewal documents sometimes display a lack of understanding of the English language which can cause problems both from a legal point of view (if they cannot read an application form, or the conditions on their licence, how can they comply with them safely?) and from a customer service point of view (i.e. talking to the passengers on a day to day basis or dealing with situations in cases of emergency). The proposal of written and oral tests would therefore be subject of a further report and consultation.

### **Criminality checks for vehicle proprietors 7.2 – 7.6**

*Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.*

Woking's current position is that we do not currently demand a DBS from persons who are sole vehicle proprietors, i.e. Not a driver or operator. Whilst the majority of vehicles are driven by the vehicle proprietor, there are a number that are owned by a non-licensed third party and as such, to meet the 'Guidance a small change to policy would be required.

*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.*

Woking's current position does not include any necessity for checks of the 'fit and proper' test to be carried out on companies or partnerships and as such a change to policy would be required.

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### **In-vehicle visual and audio recording – CCTV 7.7**

*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.*

Woking's current position is that CCTV is not mandated. Just some of the issues around CCTV range from cost (who pays for it), proportionality, necessity and data control. As per the 'Guidance' a consultation would have to take place to assess 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.

### **Stretched Limousines 7.15 – 7.15**

*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.*

Woking's current position is that all the above measures are already met in our Hackney Carriage And Private Hire Handbook at 3.15

### **Criminality checks for private hire vehicle operators 8.2 – 8.6**

*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.*

Woking's current position is to require a basic DBS as a minimum for the issuing of an Operator Licence. Most Operators are also licence holders and so are covered by an Enhanced DBS, thus adding an extra layer of security.

### **Booking and dispatch staff 8.7 – 8.12**

*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.*

Woking's current position is this is not currently a requirement a change in policy would be required to meet the 'Guidance'.

### **Record keeping 8.13 – 8.15**

*Licensing authorities should as a minimum require private hire vehicle operators to record specific information for each booking.*

Woking's current position is that our policy includes all of the 'Guidance' requirements and more.

### **Use of passenger carrying vehicles (PCV) licensed drivers 8.16 – 8.17**

*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.*

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Woking's current position is that this restriction is not in our policy, a change in policy would be required to meet the 'Guidance'. Officers are not aware of this being practiced by any operators in Woking.

### **Joint authorisation of enforcement officers 9.2**

*Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area.*

Woking's current position is that joint authorisation formally exists between all Surrey Licensing Authorities.

### **Setting expectations and monitoring 9.3 – 9.4**

*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.*

Woking's current position is that on grant of a licence a copy of the conditions is given to the driver/operator, it is a condition of application that conditions have been read and understood.

### **Suspension and revocation of licences 9.5 – 9.10**

*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.*

Woking's current position is that our Handbook details our approach to this subject and it is much as the 'Guidance'.

## **3.0 Implications**

- 3.1 The statutory guidance states that Hackney Carriage and Private Hire licensing policies and procedures should be reviewed to reflect the measures contained in the new statutory guidance.
- 3.2 A review of the authority's licensing policy will be undertaken to align the policy with the statutory guidance. Much of what is proposed in the guidance has already been adopted by Woking Borough Council however.
- 3.3 Clearly a review of the Hackney Carriage and Private Hire licensing policy will require Member input and oversight. Initial work by officers will consider the alignment the licensing policy with the statutory guidance and Members will be engaged prior to any formal consultation on policy changes.

### Finance and Risk

- 3.4 None arising from this report.

### Equalities and Human Resources

- 3.5 The senior licensing officer is the only person who will be reporting further on this matter, this work will be carried out in as soon as possible bearing in mind the officers other functions.

### Legal

- 3.6 The Statutory Taxi and Private Hire Standards have been published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017.

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- 3.7 Section 177(4) of the Policing and Crime Act 2017 states that any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section. Failure to have regard to the guidance issued under section 177 would leave the Council in breach of a legal duty to do so. Although it remains the case that the Council must reach its own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the 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.

### **4.0 Corporate Strategy**

- 4.1 The Council is the licensing authority for the purposes of the Licensing Act 2003, the Local Government (Miscellaneous Provisions) Act 1976 and the Policing and Crime Act 2017 for matters such as Premises Licences and Taxi and Private Hire. The statutory responsibilities contribute to promoting a strong and vibrant economy and the protection of the local and travelling public.

### **5.0 Engagement and Consultation**

- 5.1 The Statutory Taxi and Private Hire Standards are long overdue and very welcome, they at least provide some commonality countrywide. There many other areas of the taxi licensing regime which remain problematic and it is hoped that further changes may be forthcoming.
- 5.2 Further reports detailing proposed changes to conditions contained in the Hackney Carriage and Private Hire Policy and any necessary consultation to comply with the statutory standards will be received by the Committee as required.

REPORT ENDS