

Agenda Item No: 12



ASHFORD
BOROUGH COUNCIL

Report To: CABINET

Date of Meeting: 26 November 2020

Report Title: **Taxi Licensing Policy 2017-2022 - Amendments**

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Portfolio Holder: Cllr. Peter Feacey

Portfolio Holder for: Community Safety and Wellbeing

Summary: The purpose of this report is to present a number of amendments to the Taxi Licensing Policy 2017-2022 as a result of the issue of the 'Statutory Taxi and Private Hire Vehicle Standards' published by the Department for Transport.

Each of the amendments is designed to ensure consistency between licensing authorities, and increase the protections to members of the public.

Key Decision: NO

Significantly Affected Wards: N/A

Recommendations: **The Cabinet is recommended to:-**

- i. **Recommend to council the adoption of the proposed amendments to the Taxi Licensing Policy 2017-2022**

Policy Overview: The determination of taxi and private hire driver, operator, and vehicle licence applications is a statutory duty and provides protection to the public ensuring vehicles, operators and drivers are fit and proper for the purposes of providing such services.

Our policy with respects to this subject area guides members of the public, applicants, elected members, and officers on such matters.

Financial Implications: The increased protections, checks and regulation does have a resource burden. The cost, in generality, is recovered through the relevant licensing fees as a reasonable cost of administering this particular licensing regime.

Legal Implications Adjustment to the policy in line with the published statutory standards is designed to ensure that appropriate decisions can be made in the interests of protecting public safety. The adoption of the statutory standards will support the decisions made, and as such will make our position more legally robust.

Equalities Impact Assessment See attached

Other Material Implications: None

Exempt from Publication: NO

Background Papers: Taxi Licensing Policy 2017-2022
(available via <https://www.ashford.gov.uk/media/5156/taxi-licensing-policy.pdf>)

Statutory Taxi and Private Hire Vehicle Standards
<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

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Report Title:

Taxi Licensing Policy Amendments

Introduction and Background

1. The Council adopted the Taxi Licensing Policy 2017-2022 (as amended) on 12 October 2017
2. The policy relating to the determination of applications not only guides the decision-maker but also serves to inform an applicant about what they should consider in preparing their application. Furthermore the policy sets out the standards to which the licensing authority will work and provides confidence to the public that the drivers are fit and proper, and that the vehicles are fit for purpose.
3. The purpose of this report is to present proposed amendments for the purpose of meeting the requirements as set out in the 'Statutory Taxi and Private Hire Vehicle Standards' published by the Department for Transport.
4. Most of these standards are already in practice within our licensing policy and processes, however there are some adjustments required in order to be fully compliant with the statutory guidance.
5. It should be noted that the Council must have regard to these standards, and should only deviate from them where there are compelling and evidenced local reasons for doing so.
6. Other minor policy amendments are included in this report to ensure that the remainder of the policy document works with these changes and for the purposes of further clarifying the policy of the council.
7. In short, the main changes that are proposed primarily relate to the following areas, but are explained in detail in the subsequent sections of the report :-
 - Increasing policy change consultation requirements
 - Increasing English (written and oral) testing
 - The training of decision makers
 - Mandatory safeguarding and county-lines awareness training for drivers
 - Increased criminal record checks
 - Increased self-reporting requirements
 - Increased record keeping requirements
 - Updating the scheme of penalty points, and,
 - A proposal to conduct a separate consultation on mandatory installation of in-car CCTV systems.

Proposal/Current Position

8. The proposed changes to the policy are listed as follows:-

Recommendation 1 – Consultee details

The statutory standards propose the use of ‘standard’ consultees used in the formulation of the Taxi Licensing Policy.

To comply with this standard, it is proposed to insert a section into the policy introduction to list the standard consultees including; Ashford Taxi Forum, the public, Ashford Access, Chamber(s) of Commerce, Campaign for Better Transport, Multi-Agency Safeguarding groups, PubWatch, and, neighbouring Licensing Authorities.

Note:

- The policy changes under consideration have been subject to the above-mentioned consultations as detailed later in this report.

Recommendation 2 – Increased self-reporting requirements

The statutory standards proposed a requirement for licences to self-report arrest and release, charges, or convictions within 48 hours.

Accordingly, we propose a minor amendment of the private hire drivers licence standard conditions, and policy document, to meet this standard. The amended condition is to read :-

‘The driver must notify the council within 48 hours of any of the following:

- a) Arrest and release.
- b) Charge or conviction for any criminal offence, including but not limited to sexual, dishonesty, violence, or motoring, offences (including fixed penalty offences).
- c) Any grant of bail to the driver (conditional or unconditional) by any court or police force.
- d) Any court cases pending against the driver.
- e) Whether the driver has been cautioned or received any official warning from the Police.’

Note:

- The existing condition and policy is 14 days,

Recommendation 3 – How to complain

The statutory standards propose that ways to make a complaint to the licensing authority must be displayed in all licensed vehicles.

To achieve this standard, the annual tariff card (issued in April each year) is to be amended to include relevant details of how to make a complaint to the Licensing Authority to increase public reporting of any areas of concern. To compliment this, the private hire vehicle conditions and policy should be amended to make it a mandatory requirement to display the tariff card, except

in the case of private hire vehicles not utilising a meter which may elect to alternatively display a window sticker as supplied by the Licensing Authority.

The proposed new private hire vehicle condition is as follows;

'Private hire vehicles must, at all times, display to the passenger the tariff card as issued annually by the Licensing Authority. Private hire vehicles not fitted with a meter may alternatively display a window sticker available upon request from the Licensing Authority and display that in lieu of the tariff card. That sticker must be displayed on the windscreen in a position (such as where a tax disc would have been located) so as to be readable to passengers'.

Note:

- It is already a mandatory requirement to display the tariff card in hackney vehicles.

Recommendation 4 – Taxi licensing training for members

The statutory standards require that all council members that determine whether a licence is issued should be required to undertake sufficient training.

To achieve this requirement the policy document is to be updated to include a requirement for Councillors on the relevant committee to be suitably trained.

Note(s):

- A number of members have already undertaken this training.
- This requirement will be included in council constitutional update via the Selection and Review process.

Recommendation 5 – Decision making

The statutory standards recommends that determination of licensing matters are made by a panel of elected councillors, drawn from a larger Regulatory Committee.

In line with the statutory standards guidance, it is proposed that the policy be updated to make it clear that with the exception of the grant of licences (where no adverse history or issues arise) and urgent decisions on public safety grounds that decisions on taxi licensing shall be referred to a Sub-Committee Hearing

Note(s):

- Current delegations generally place decision making with the relevant responsible officer
- Constitutional updates are currently in progress to setup a new Regulatory Committee for this purpose.

Recommendation 6 – Fitness test

The statutory standards recommends a ‘test’ to determine fitness of drivers, which is an update to the version currently used in the existing policy.

It is proposed to include this updated ‘test’ into the policy and decision-making processes, which reads;

‘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?’

Recommendation 7 – DBS update service

The statutory standards recommends that drivers should be required to evidence continuous registration with the DBS Update Service to allow criminal checks every 6-months.

It is proposed that in order to meet this requirement;

- a) With effect from adoption, all new/renewal driver applications will be subject to evidence continuous registration with the DBS update service.
- b) Driver licence conditions to be amended to include the above requirement

The proposed condition is as follows :-

‘The licensee shall ensure continuous registration with the Disclosure and Barring Service ‘Update Service’ throughout the licensed period, and provide the required registration details to the Licensing Authority as may be required.’

- c) Existing licensees given 6-months period to provide evidence of continuous registration with the DBS update service.
- d) 6-monthly enhanced-DBS checks to be conducted, and,
- e) The policy document to be updated accordingly.

Note:

- Current enhanced DBS checks for drivers are three-yearly.

Recommendation 8 – Barred lists

The statutory standards requires that we should not issue a licence to any person who appears on the barred lists for working with vulnerable children or adults.

It is already considered that no licence would be granted to such a person; however, it is proposed to incorporate the wording used in this requirement into our policy document.

Recommendation 9 – Safeguarding training

It is a recommendation of the statutory standards that drivers should undertake safeguarding and county lines training to raise awareness of potential exploitation.

It is proposed that policy should be amended so that new drivers will need to submit evidence of this training as an application pre-requisite. It is also proposed to update policy to reflect the need for existing drivers to be required to submit evidence of this training within 6-months of the adoption of the update policy.

Note:

- Some drivers will have completed both of the Safeguarding and County Lines awareness training provided free as part of prior work undertaken with colleagues in Kent Police. These drivers will not be required to retake this training.
- It is proposed to accept eLearning certificates for this awareness training from open source providers where it is considered that the content of their training is sufficient to meet the requirement of the statutory standards. Details of accepted providers will be publicised.

Recommendation 10 – Language proficiency

The statutory standards require that the licensing authority's test of language proficiency should cover both oral and written English.

As our existing test include both of these elements as well as basic maths, it is proposed to insert a minor amendment into the policy to recognise the need for oral/written English, and basic maths

Recommendation 11 – DBS checks for vehicle proprietors

It is recommended by the statutory standards that a basic disclosure from the DBS is undertaken and submitted annually for vehicle licensees.

To meet the recommendation of the statutory standards, it is proposed;

- a) To make it a pre-requisite of an application for the grant, transfer, or renewal of a licence to submit a basic disclosure.

Note(s):

- Currently there are no such checks, only self-disclosure requirements at the time of application for grant/transfer/renewal of a licence.
- Where a company holds a licence, then each director shall be required to submit a basic disclosure.
- Where the applicant/director is a driver, these requirements are not applicable due to the enhanced checks performed on drivers.

Recommendation 12 – In car CCTV systems

The statutory standards does not go so far as to state whether in car CCTV systems should be mandated for all vehicles, but does recommend that the licensing authority consult on whether there are local circumstances which would mean that in car CCTV would have a positive or adverse net effect on the safety of users.

Due to the complexities involved in such systems, costs for the trade, and data-protection, it is proposed to conduct a separate CCTV specific consultation on this matter in 2021/2022.

Recommendation 13 – DBS checks for private hire operators

It is recommended by the statutory standards that a basic disclosure from the DBS is undertaken and submitted annually for Private Hire Operators.

To meet the recommendation of the statutory standards, it is proposed;

- b) To make it a pre-requisite of an application for the grant or renewal of a licence to submit a basic disclosure.
- c) To amend the existing policy to require annual submission of basic disclosure on the annual anniversary of the licence first being issued.
- d) To amend the Private Hire Operator conditions to reaffirm the above requirement

The proposed condition is as follows :-

'The licensee(s), or each company director (in the event that a company holds the licence) shall submit to the Licensing Authority an annual basis disclosure from the Disclosure and Barring Service within 30 days of the annual anniversary of grant of the licence. The basic disclosure certificate must be dated within one month of submission.'

Note: Licensees and directors who hold a private hire licence with Ashford Borough Council are exempt from this requirement'

- e) Amendment of Private Hire Operator conditions to require formal notification of any changes of any company directorship where a licence is held by a company, with a Basic Disclosure certificate(s) being submitted within 14 days of such change.

The proposed condition is as follows :-

'Where a licence is held by a company, and there are any changes of directorship, then the licensing authority must be notified within 14 days of such change, along with the submission of a basic disclosure from the Disclosure Barring Service for any new director(s). The basic disclosure certificate must be dated within a month of the change of submission.'

Note: Directors who hold a private hire licence with Ashford Borough Council are exempt from this requirement'

Note(s):

- Currently there are no such checks, only self-disclosure requirements at the time of application for grant/renewal of a licence.
- Where a company holds a licence, then each director shall be required to submit a basic disclosure.
- Where the applicant/director is a driver, these requirements are not applicable due to the enhanced checks performed on drivers.

Recommendation 14 – Booking and dispatch staff

The statutory standards introduces a range of new requirements in relation to booking and dispatch staff used by private hire operators including;

- a) That operators should keep a register of all staff that take and dispatch bookings, including evidencing that they have seen a basic disclosure for those staff members.
- b) That contracts of employment for booking/dispatch staff includes, as part of that contract, that those staff must notify the employer of any convictions whilst employed in that role.
- c) That when outsourcing booking/dispatch functions that the operator must retain evidence that comparable protections are applied by the company to which they outsource that role.
- d) Those operators should provide a written policy on the employment of ex-offenders in booking/dispatch roles.

In order to meet the requirements of the statutory standards it is proposed that;

- a) The PHO conditions and Taxi Licensing Policy are amended to require that Private Hire Operators maintain a 'live' register of all staff that take bookings or dispatch vehicles. Such records shall include evidence that they have had sight of a basic disclosure (dated within a month of viewing) at the time of adding staff members. The proposed condition is as follows :-

'The Private Hire Operator shall maintain a live register of all staff that take bookings or dispatch private hire vehicles. The register shall include name, address, and telephone number of the staff member along with evidence that they have viewed the staff member's certificate of basic disclosure from the Disclosure and Barring Service (dated within a month of viewing). This would include the date of viewing, the date of the certificate along with any reference number(s), and a comment as to whether there were any entries on the certificate.'

- b) Amendment of PHO conditions and Taxi Licensing Policy to state that when individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role

The proposed condition is as follows :-

'The Private Hire Operator shall ensure that any staff employed for the purposes of taking or dispatching private hire vehicles shall, as part of their employment contract, be required to notify the operator of any convictions whilst they are employed in that role.'

- c) Amendment PHO conditions and Taxi Licensing Policy to make it clear that where a Private Hire Operator outsources bookings or dispatch functions, the operator shall be required to evidence comparable protections are applied by the company to which they outsource work.

The proposed condition is as follows :-

'The Private Hire Operator shall, where booking or dispatch functions are outsourced, be required to retain evidence that comparable protections are applied to the company to which the work is outsourced in terms of the register of booking and dispatch staff and contacts of employment (as described in the preceding two conditions). This evidence shall be submitted on request to the Licensing Authority.'

- d) PHO applications form to be amended to require a written policy on the employment of ex-offenders to booking and dispatch roles. This policy shall be compared with the threshold to obtaining a private hire vehicle operators' licence in terms of suitability. This is also proposed to be duplicated into the private hire conditions. The proposed condition is as follows :-

'The Private Hire Operator shall keep an up to date written policy on the employment of ex-offenders in booking and dispatch roles, and apply appropriately. The written policy shall be submitted to the Licensing Authority on request and at licence renewal.'

Recommendation 15 – Record Keeping

The statutory standards recommend a minimum list of details, which a private hire operator should keep with respects to any booking, whether subcontracted or received/serviced directly. Such records should be maintained for a minimum 6-month period.

It is proposed to include a minor amendment to the Private Hire Operator licence conditions and policy to ensure that the existing condition and policy meets the details as listed in the statutory standards. The amended condition shall read :-

'Records

- a) *The operator shall keep a permanent record of every booking of a private hire vehicle invited and accepted by them, whether direct from the hirer or by undertaking the bookings at the request of another operator. The records shall be made available for inspection by the Council's Licensing Officer upon request. The record entries must be made before the commencement of each journey and shall include:*
- The name and telephone number of the passenger*
 - The date and time of the booking request*
 - The date and time of the pickup*
 - The pick-up point*
 - The destination*

- *The name of the driver*
 - *The drivers licence number*
 - *The vehicle registration number of the vehicle used*
 - *The name of any individual that responded to the booking request*
 - *The name of any individual that dispatched the vehicle.*
- b) *All records kept by the operator pursuant to Condition 3.1 above shall be preserved for a period of not less than twelve months following the date of the relevant entry*
- c) *The operator shall keep written records of the particulars of all private hire vehicles operated by them and shall include a copy of the licensed drivers private hire licence, details of the proprietors, registration number and drivers of such vehicles together with any radio sign used.*
- d) *The Operator will securely retain the licenses of all drivers engages to work for them and make them available for inspection as required.'*

Recommendation 16 – Driver exhaustion

This recommendation is in addition to the standard proposed by the statutory guidance.

It is proposed to amend the Private Hire Operator licence conditions and Taxi Licensing Policy to make it a requirement for the operator to conduct and maintain an up to date written risk assessment relating to working hours of drivers, taking account of;

- hours driving,
- hours on standby,
- rest periods,
- rate of pay/income, and,
- other work whether or not related to driving.

This requirement compliments other requirements and acts to ensure that the public are not left at unacceptable risk from exhausted drivers who may be working multiple jobs, or working for extended periods.

The proposed condition is :-

'The licensee shall ensure that they maintain an up to date written risk assessment in relation to the potential for driver exhaustion, taking into account factors such as hours driving, hours on standby, rest periods, rates of pay/income, and other work/employment whether or not related to driving. Such risk assessment shall be supplied to the Licensing Authority upon request.'

Recommendation 17 – Operator self-reporting requirements

This recommendation is in addition to the standard proposed by the statutory guidance.

It is proposed to amend the Private Hire Operator licence conditions and Taxi Licensing Policy to make it a requirement for the operator to report to the licensing authority within 7 days any; significant data breaches, changes of dispatch and record keeping systems, and management/system faults. This is to include incidents such as where a vehicle has been driven without insurance cover, or where a vehicle has been driven without a valid driver's licence being held.

This requirement complements other self-reporting requirements and ensures that the licensing authority can fully consider an operator's performance in terms of suitability to remain licensed.

The proposed condition is :-

'The licensee shall ensure that they notify the Licensing Authority, within seven days, of;

- Any Information Commissioners Officer reportable data breaches*
- Changes of dispatch and record keeping systems, and,*
- Management/system fault, such as where a vehicle has been driven without insurance cover, or where a vehicle has been driven without a valid drivers licence being held.'*

Recommendation 18 - Joint authorisation

The statutory standards recommends, should the need arise, that licensing authorities jointly authorise officers so that enforcement can be taken outside of the borough in which they are licensed.

At this time no identified need has arisen, however with the approval of Council this option shall be explored via the Kent and Medway Licensing Steering Group as and when such need arises. It should however be noted that it is an expectation of this licensing authority that our licensees would be polite, courteous, and assist enforcement officers in other licensing authority areas at all times.

Recommendation 19 – Penalty points scheme

As identified by the statutory standards, 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.

It is proposed that whilst we operate such a system, the number of points and periods in which points accrue have not been updated in a number of years. As such, it is proposed to make the changes within *Appendix A* in order to ensure that the points system reflects the seriousness of breaches and also ensures that it continues to afford suitable protections for the public.

For ease of reference, the changes are highlighted by red text in *Appendix A*.

Recommendation 20 – National Register

As recommended, the Licensing Authority uses the National Register of Taxi Licence Refusals and Revocations (NR3) in order to record refusals and revocations of taxi licences.

This helps to ensure that data is shared between licensing authorities and helps to prevent an unfit applicant who has lost their licence, from simply reapplying to another borough who would otherwise potentially be unaware of their misdemeanours.

This recommendation seeks to insert a section, outlining the use of this register in line with the National Register requirements, within our Taxi Licensing Policy.

Implications and Risk Assessment

9. Whilst these changes could ultimately be appealed via the Magistrates Court, the update to this policy is not anticipated to have any significant implications.
10. The greatest implication perceived is the potential for more applicants to be refused a license or subject to enforcement based on the greater emphasis on public safety requirements. As such it is important to ensure that policies must be justifiable and follows the statutory standards and other associated guidance.
11. Judicial review is a risk if the policy strays beyond the requirements of the act, or restricts legal activities without due and appropriate cause.
12. On the whole, the adoption of the statutory standards ensures that our approach remains legally robust.

Equalities Impact Assessment

13. The policy will affect all persons involved or affected in a relevant licensable activity in the Borough, irrespective of gender, race, disability, sexuality or age. Recipients of the policy include holders of licences, members of the council's Appeals Committee, authorities e.g. Kent Police, KCC Schools Transport, Kent Fire & Rescue Service, etc. and all of the Borough's businesses, residents of the borough and those who visit and use local taxi services.
14. An equalities impact assessment is attached as *Appendix B*

Consultation Undertaken

15. In line with the published statutory standards, a consultation was undertaken with the relevant parties.
16. This first consisted of an informal presentation of the statutory standards to the Taxi Forum representatives on the 26th August 2020, via a Microsoft Teams. These representatives are elected by the trade to their respective

positions, and include a representative for independent drivers, executive drivers, private hire drivers, hackney carriage drivers, and, companies.

17. Following that meeting a formal consultation survey was sent, on the 26th August 2020, to the recommended consultees as detailed in this report. The consultation was also published on www.ashford.gov.uk.
18. The consultation run between 26th August 2020 and 30th September 2020, and elicited a single formal response from the Taxi Representative for hackney vehicles/drivers.
19. A copy of the consultation document and the sole response is contained at Appendix C, but the comments are summarised here for ease :-

In general the representative agreed with the recommendations, except for the following summarised responses;

Recommendation 3 – How to complain

The respondent noted the print on the fare tariff card being relatively small, and that this topic is a ‘huge problem’. The respondent felt larger/clearer ‘how to complain’ signage was needed.

Response – The issue of signage was reviewed when considering this measure. The requirement must be considered in light of the types of vehicles on the licensed fleet, and some like standard saloons will not have specific locations in which to display signage. It was felt that it was unlikely that signage would be visible to every passenger seat at all times, and window stickers would fail due to weather and the mechanical operation of side windows. It is not viable in all vehicles to display large posters and as such the only two options left were considered to be the fare tariff card and the space that would have in the past been occupied by the tax disc. Both would be liable to have similar size print and require closer inspection to obtain the details. Whilst the proposed option is not perfect, it is at this time considered to be sufficient for purpose.

Recommendation 4 – Taxi licensing training for members

The respondent enquired whether there is sufficient time resource available for member to receive the recommended training.

Response – Although making this training mandatory is an additional burden on the licensing authority it is not considered grounds to deviate from the statutory standard as specified.

Recommendation – Safeguarding training

The respondent raised issues with timing of such training, and need to move towards online training, especially in light of Covid19.

Response – As specified in this report, it is proposed to take advantage of existing eLearning packages available in order to satisfy this requirement and avoid the need for face-to-face training sessions, which would have a significant additional cost burden.

Recommendation 11 – DBS checks for vehicle proprietors

The respondent felt that these checks should also be on DBS update service.

Response – It is our understanding that the basic checks are not eligible for the update service.

Recommendation 13 – DBS checks for private hire operators

The respondent felt that these too should be on the update service and that a year between checks is too long

Response – It is our understanding that these basic checks are not eligible for the update service, and it is not proposed to go beyond the statutory standards at this time in terms of increasing the frequency of these checks. Any increased requirements for checks should be supported by an evidenced need/justification, and at this time such need is not evidenced.

Recommendation 16 – Driver exhaustion

The respondent felt that this measure was too onerous, but appeared to believe it was a physical check prior to shifts, rather than a written risk assessment.

Response – It is felt that this measure should form part of the risk assessments conducted by such a business under the Health and Safety at Work Act 1974, and should therefore not be any more onerous than existing legal requirements.

Recommendation 17 – Operator self-reporting requirements

The respondent enquired whether the trade has been provided with the Information Commission Officers rules, so as to know whether they have been breached.

Response – It is highlighted that it is not the responsibility of the licensing authority to highlight to the trade other legal requirements associated with running a business. It is incumbent on the business operator to familiarise themselves with the relevant legal requirements associated with operating a business.

Recommendation 18 – Joint authorisation

The respondent raised issue surrounding the cross-border deregulation, and need for consistent standards.

Response – The introduction of the statutory standards from the DfT is the first move towards more consistent standards between authorities.

20. Informal verbal feedback to the Licensing Officers from a few members of the trade acknowledged that there was unlikely to be specific local reasons for deviation of the national statutory standards and therefore whilst there may be increased burdens upon the trade, there was little argument against the increased controls to protect public safety.

Other Options Considered

21. It is recognised by the Department for Transport that it is for local authorities to reach their own decisions on overall policies and on individual licensing matters, however the publishing of the statutory standards is a first move to increasing consistency of standards between licensing authorities, and in ensuring that there are minimum protections for public safety.
22. There are as always a number of options available to councils with respects to taxi licensing. These include going above, or below, the statutory standards where local circumstances dictate.

Reasons for Supporting Option Recommended

23. It is felt that the options proposed are appropriate to the borough, act to ensure that public safety is protected, and ensure an efficient and effective licensing regime.
24. Overall this approach is recommended to ensure that the policy remains up to date, and can be effectively applied by the council, officers, applicants, and the general public.

Next Steps in Process

25. Once the amendments are adopted by council, the amended policy will be published and the measures will be implemented as soon as reasonably possible.
26. The final policy will be subject to review at the end of the policy period, along with any periodic review brought about by changes in the Council's approach, in guidance, or changes to relevant legislation

Conclusion

27. The proposed amendments are been made to sections of the policy based on legislation, guidance, and good practice coupled with the clear need to protect the public. The amendments will aid an efficient and effective licensing regime going forwards.

Portfolio Holder's Views

28. "As former Chair of the Licensing Health & Safety Committee, I am only too aware that the formation of the statutory guidance to provide continuity between Licensing Authorities is a number of years overdue. I therefore strongly recommend the adoption of these measures for the continued protection of the public."

Councillor Peter Feacey - Portfolio Holder for Community Safety & Wellbeing

Contact and Email

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Appendix A: Updated penalty points tariff

Appendix B: Equalities Impact Assessment

Appendix C: Consultation survey document and response

Appendix A

Penalty Points System

- 1** The penalty points system outlined below identifies a number of breaches of conditions, byelaws and/or statutory provisions. It then indicates the number of points to be invoked should the breach be proven. The implementation of points would take place following investigation of offences or receipt of formal proceedings elsewhere by another agency e.g. the police.
- 1.1** Penalty points will only be imposed where the licensee agrees the breach or offence has taken place. Where the licensee does not agree that the breach or offence has taken place the only option available to the Council will be to prosecute, or review their fitness to hold the relevant licence.
- 2** **The details of how the scheme will be operated are as follows:**
 - 2.1** Penalty points will be applied by authorised officers of the Council upon completion of investigation of relevant breaches of the Council's hackney carriage and private hire conditions or other relevant statutory provisions where breaches are identified.
 - 2.2** Penalty points when issued will be confirmed in writing to the licence holder.
 - 2.3** The number of penalty points issued will be in accordance with the tariff, reproduced below.
 - 2.4** The Council retains the discretion to issue penalty points to drivers, driver/proprietors and operators for a single contravention if the circumstances warrant it i.e. the breach is one against all these licences and it is considered joint responsibility is held.
 - 2.5** The imposition of penalty points against a driver who is an employee will not necessarily result in additional imposition of points to their employer or operator.
 - 2.6** Penalty points issued under this scheme will have a "life" of **24** months, and then will be deemed spent. The system is based upon a rolling **24** month period.
 - 2.7** There is no financial penalty associated with the system, and the licensee may continue to work. However, the licensee will be asked to attend a Committee hearing if more than a certain number of points are imposed on an individual licence in any one **24** month period. The thresholds are as follows:

Penalty Points Tariff

Hackney Carriage Driver	12 Points
Hackney Carriage Proprietor	12 Points
Private Hire Driver	12 Points
Private Hire Proprietor	12 Points
Private Hire Operator	24 Points

3 On appearing before the Licensing Committee the following recommendations will generally be made by Officers.

- 3.1 On the accumulation of 12 or more penalty points in a **24** month period a driver or a vehicle proprietor will be subject to a recommendation to suspend **or revoke the licence**.
- 3.2 On the accumulation of 24 or more penalty points in a **24** month period an Operator will be subject to a recommendation to suspend **or revoke the licence**.
- 3.3 Drivers, proprietors, or operators who accumulate the necessary total of points in a rolling period on a second or subsequent occasion, will be asked to reappear before the Committee. The Committee will take into account previous cautions, suspensions or prosecutions when considering Officer's recommendation for a longer period of suspension, or revocation of the relevant licence.
- 3.4 The above recommendations would not fetter the discretion of the Committee who may always decide to take no further action, to suspend the licence for any period, or to revoke a licence.
- 3.5 Once prosecuted or suspended all penalty points will be removed from the total accrued for that year by drivers, vehicle proprietors, and operators.
- 3.6 Any driver or vehicle proprietor or operator subject to suspension or revocation has the right of appeal to the **Appeals Committee and to the Magistrates' Court** against the suspension or revocation. All suspensions will therefore be subject to a 21-day appeals period prior to implementation to allow for the formal appeals process.

4 Penalty Point Tariff

PH - Private Hire, HC -Hackney Carriage

- 4.1 Matters identified with an asterisk (*) are direct contraventions of the Local Government (Miscellaneous Provisions) Act 1976 or other statutory requirements.
- 4.2 Matters identified with "C" are breaches of conditions imposed on the licence. Matters identified with "B" are breaches of the Byelaws.
- 4.3 Some offences marked (HC) apply only to hackney carriages.

4.4 General Breaches

		Contravention	Driver	Proprietor	Operator
1.	False declaration on application/renewal of licence	*	6	4	4
2.	Obstruction of authorised officer	*	3	3	3
3.	Failure to behave in a civil and orderly manner to customers.	C/B	3		
4.	PH/HC Driver failing to notify any; arrest and release, charge, conviction, caution, or penalty notice within 48 hours	C	3		
5.	PH/HC driver failing to maintain continuous registration with the DBS update service.		3		

6.	Failure to display badge in such position as to be plainly visible	B/*	4		
7.	Failure by HC Proprietor, PH driver or Operator to notify the Council of change of address within 7 days	*/C	2	2	2
8.	Smoking and/or failing to prevent smoking in licensed vehicle	Health Act	3		
9.	Failure to display required no smoking signs	Health Act		3	3
10.	Failure to comply with the Code Of Conduct and/or the Dress Code	C	3	3	3

4.5 Vehicle Breaches

PH - Private Hire, HC -Hackney Carriage

		Contravention	Driver	Proprietor	Operator
11.	No fire extinguisher in vehicle.	B/C		3	3
12.	No First Aid kit in vehicle.	C		3	3
13.	Failure to return vehicle licence plate at request of authorised officer following expiry, revocation or suspension of licence.	*		2	2
14.	Interfering with a taximeter	*	4	4	4

		Contravention	Driver	Proprietor	Operator
15.	Failure to display vehicle licence plate in authorised manner	C		3	3
16.	Proprietor of HC or PH Operator failing to report accident damage to vehicle within 72 hours.	*		2	2
17.	Failure to produce insurance documents at request of authorised officer.	*		4	4
18.	Using unlicensed vehicle, or using without insurance.	*C		12	12
19.	Carrying more passengers than permitted by vehicle licence.	*B	4		
20.	Refusal to carry passengers without reasonable excuse. (HC)	*	4		
22.	Unauthorised advertising on vehicle.	C		3	3
22.	Failure to notify transfer of vehicle licence interest within 14 days.	*		3	3
23.	Failure to convey or assist with carrying luggage.	B/C	2		
24.	Failure to deliver lost property to police	B/C	2		

		Contravention	Driver	Proprietor	Operator
25.	Failure to display tariff card in the vehicle, or licensing authority complaint information for an unmetered PH where relevant.	B/C		3	
26.	Defective taxi meter (HC)	B		3	
27.	Vehicle not clean, well maintained or comfortable	C		3	2
28.	Failure of HC Proprietor to hold a HC drivers' licence	*		2	
29.	Unattended HC Vehicle on a rank. (HC)	*	2		
30.	Failure to present vehicle for mechanical inspection.	*		3	3
31.	HC or PHV unfit for use as a Hackney Carriage or Private Hire vehicle	*		4	4
32.	Use of vehicle without a current compliance certificate	*		9	9
33.	Plying for hire without a licence	*	9	9	
34.	Overcharging (HC)	*	4		
35.	HC Proprietor employing an unlicensed driver (HC)	*		12	

		Contravention	Driver	Proprietor	Operator
36.	Using a vehicle subject to a suspension order issued by an authorised Officer, or by the police.	*		12	12
37.	Driver not holding a HC and/or PH drivers licence.	*	6		
38.	Unnecessarily prolonging a journey	*	4		
39.	PH Driver failing to notify the Council of serious injury or illness	C	4		

4.3 Operator Breaches

PH - Private Hire

		Contravention	Driver	Proprietor	Operator
40.	Failure to keep proper records of bookings	*			6
41.	Operating a PH Vehicle when the driver is not licensed	*			12
42.	Operating a vehicle as a PH Vehicle when the vehicle is not licensed as a PH Vehicle	*			12

43.	Failure to submit annual basic disclosure(s) for licensee				3
44.	Failure to declare change of directorship and/or basic disclosure within 14 days.				6
45.	Failure to submit written policies or risk assessments required by condition				8
46.	Failure to keep a 'live' register of all staff that take bookings or dispatch vehicles.				12
47.	Failure to incorporate conviction reporting in booking/dispatch staff contracts				8
48.	Failure to provide evidence of comparable booking/dispatch protections applied by company to whom work is outsourced.				12
49.	Failure to maintain a written policy on the employment of ex-offenders to booking/dispatch functions.				8
50.	Failure to report on ICO reportable data breaches, changes to booking systems, and management system faults				6

Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having ‘due regard’ is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To ‘have due regard’ means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is ‘due’ will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having ‘due regard’ should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have ‘due regard’ to the equality duty and so EIA’s must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on “Meeting the Equality Duty in Policy and Decision-Making” (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Equality Impact Assessment

Lead officer:	Trevor Ford
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none">• Policy, project, service, contract• Review, change, new, stop	Taxi Licensing Policy amendments
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	26 November 2020
Summary of the proposed decision: <ul style="list-style-type: none">• Aims and objectives• Key actions• Expected outcomes• Who will be affected and how?• How many people will be affected?	<p>The report seeks to recommend to Council a number of amendments to the Taxi Licensing Policy 2017-2022. These revisions include;</p> <ul style="list-style-type: none">• Increasing policy change consultation requirements• Increasing English (written and oral) testing• The training of decision makers• Mandatory safeguarding and county-lines awareness training for drivers• Increased criminal record checks• Increased self-reporting requirements• Increased record keeping requirements• Updating the scheme of penalty points, and,• A proposal to conduct a separate consultation on mandatory installation of in-car CCTV systems. <p>The aim of the update is to provide the current policy with amendments to ensure that it remains up to date, effective, and protects public safety in line with the recently published statutory standards.</p> <p>It is expected that the public may be affected by the policy by means of access local taxi services, or should they wish to apply for a licence. Businesses providing such services will also be affected by ways of needing to comply with increased public safety measures.</p>
Information and research: <ul style="list-style-type: none">• Outline the information and research that has informed the decision.• Include sources and key findings.	<p>Research conducted as part of the revision of the policy includes;</p> <ul style="list-style-type: none">• Best practice guidance• General taxi licensing research• Liaison with taxi and private hire drivers and operators via the Taxi Forum
Consultation:	

<ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	<p>Consultation has occurred through the Taxi Forum, and with standard consultees highlighted by the statutory standards guidance.</p> <p>The consultation period ran throughout September 2020, and elicited a single response, which on the whole was agreeable to most of the changes.</p> <p>No responses arose with respects to the protected characteristics and equality.</p>
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Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	Medium	Neutral
Middle age	Low	Neutral
Young adult	Medium	Neutral
Children	Medium	Neutral
<u>DISABILITY</u> Physical	Low	Neutral
Mental	Low	Neutral
Sensory	Low	Neutral
<u>GENDER RE-ASSIGNMENT</u>	Low	Neutral
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	Low	Neutral
<u>PREGNANCY/MATERNITY</u>	Low	Neutral
<u>RACE</u>	Low	Neutral
<u>RELIGION OR BELIEF</u>	Low	Neutral

<u>SEX</u>		Neutral
Men	Low	
Women	Low	Neutral
<u>SEXUAL ORIENTATION</u>	Low	Neutral

Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	See conclusion
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Is the decision relevant to the aims of the equality duty?

Guidance on the aims can be found in the EHRC's [Essential Guide](#), alongside fuller [PSED Technical Guidance](#).

Aim	Yes/No
1) Eliminate discrimination, harassment and victimisation	Yes
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	Yes
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	Yes

Conclusion:

- Consider how due regard has been had to the equality duty, from start to finish.
- There should be no unlawful discrimination arising from the decision (see guidance above).
- Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified.
- How will monitoring of the policy, procedure or

The proposed amendments act to protect public safety and ensure consistency between licensing authorities.

This decision and the specific elements, are not considered to have specific impacts on any one particular characteristic, and therefore are not considered to discriminate or have an disproportionate impact on any such group.

It is however considered that these amendments would have an overall positive impact on all users in terms of increased protections, and any perceived impacts such as the requirement for a basic level of written and oral English is considered to be outweighed greatly by the overriding interest in protecting public safety.

The policy shall be reviewed at the end of its five-year period, and by any changes to guidance, law, or enforcement identified within that period. The next review is scheduled for 2022.

decision and its implementation be undertaken and reported?	
EIA completion date:	6 October 2020

Appendix C

Review of the Taxi Licensing Policy 2017-2022

The following document summarises the proposed changes to Ashford Borough Council's Taxi Licensing Policy 2017-2022 as a result of the publishing of the Department of Transport's '[Statutory Taxi and Private Hire Vehicle Standards](#)' in July 2020.

Please note that the council must have regard to the requirements of this guidance and should only deviate from the recommendations where there is compelling reasons to do so.

Accordingly, we welcome feedback and any supporting evidence, in order that the council may take into account any views expressed.

This document can be emailed back via licensing@ashford.gov.uk or posted to *Licensing, Civic Centre, Tannery Lane, Ashford, Kent, TN23 1PL* prior to the end of the 30 September 2020.

Summary of Statutory Guidance Requirement	Recommendations
<p><u>Policy consultation</u></p> <p>Policy changes should be consulted upon with the trade and groups liable to be the trades' customers.</p>	<p>Recommendation 1</p> <p>Taxi Licensing Policy to be subject to minor amendment to include a section to list standard consultees including;</p> <ul style="list-style-type: none">• Ashford Access• Chamber(s)of Commerce• Campaign for Better Transport• Multi-agency safeguarding groups• PubWatch• Neighbouring Licensing Authorities
<p>Consultee comments on recommendation 1</p> <p>Agreed</p>	

<p><u>Gathering and Sharing Information</u></p> <p>Licence holders should be required to notify the issuing authority within 48 hours of any; arrest and release, charge, or conviction.</p>	<p>Recommendation 2</p> <p>Private hire drivers licence standard conditions, and policy document, to be updated to include shorter self-reporting periods (<i>currently 14 days</i>) and updated wording (<i>does not currently include arrest and release</i>).</p>
<p>Consultee comments on recommendation 2; Agreed</p>	
<p><u>Complaints</u></p> <p>Ways to make complaint to the Licensing Authority must be displayed in all licensed vehicles.</p>	<p>Recommendation 3</p> <p>Annual tariff card (<i>April 2021 onwards</i>) to be amended to include relevant details of how to make a complaint.</p> <p>Private hire vehicle licence standard conditions, and policy document, to be amended to include mandatory display of the tariff card (<i>this requirement already exists in Hackney conditions</i>).</p>
<p>Consultee comments on recommendation 3; The current plans to display how to complain and who to complain to, are to be printed on a very small form. By doing so it is virtually impossible for anyone to see it. A lack of thought has gone into something that is a huge problem. Arrow taxis has a large quality assurance sticker on the rear window. It would make more sense for a similar sign to highlight, that ABC is the licensing authority, and that all complaints should be addressed to them</p>	

<p><u>Training of Decision Makers</u></p> <p>All council members that determine whether a licence is issued should be required to undertake sufficient training. Training should be recorded.</p>	<p>Recommendation 4</p> <p>Policy document to be updated to reflect the need for councillors to be trained</p>
<p>Consultee comments on recommendation 4; Can a reasonable time for councillors be made, to allow for them to acquire the knowledge needed to comply?</p>	
<p>Decision Making</p> <p>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</p> <p>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>	<p>Recommendation 5</p> <p>Policy to be subject to minor amendment to reflect decision-making arrangements to refer all suspensions, revocations and 'other' decision making to Committee, except in serious cases that require immediate suspension/ revocation, which are delegated to a responsible officer</p>
<p>Consultee comments on recommendation 5;</p>	

Agreed

Driver Licensing

Fitness Test

Use of the following test when considering fitness;

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?

Recommendation 6

Minor amendment of Taxi Licensing Policy to include the updated fitness test wording (*prior version from J. Button*).

Consultee comments on recommendation 6;

Agreed

DBS Update Service

Recommendation 7

<p>All licensed drivers should 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.</p>	<p>All new/renewal driver applications will be subject to the pre-requisite requirement to sign up to the DBS update service.</p> <p>Private Hire Driver Licence conditions to be amended to make and evidence continuous DBS Update Service registration a mandatory requirement.</p> <p>Existing drivers will be provided with a 6-month period in which to be signed up to the DBS Update Service and provide relevant details.</p> <p>Minimum 6 monthly enhanced-DBS checks to be conducted via the DBS update service.</p> <p>Taxi Licensing Policy wording to be updated to reflect the above changes.</p>
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Consultee comments on recommendation 7;
Agreed

<p><u>Barred Lists</u></p> <p>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.</p>	<p>Recommendation 8</p> <p>Minor amendment to Taxi Licensing Policy required to explicitly include wording to this effect.</p>
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Consultee comments on recommendation 8;
Agreed

<p><u>Safeguarding and County Lines</u></p> <p>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. Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation.</p>	<p>Recommendation 9</p> <p>New driver applicants will need to submit evidence of this training as pre-requisite of application.</p> <p>Existing drivers who have not already completed both safeguarding and county lines training (<i>via the free ABC sessions</i>) will be required to submit evidence of such training through acceptor provider(s) within 6 months of policy implementation.</p>
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<p>Consultee comments on recommendation 9;</p> <p>Because of Covid the timing could be a problem. We need to move more to online. This is not only because of downtime in regards of time of the rank, but the problem is agreeing to attend and a booking coming up. Drivers are not able, financially to turn customers away, to attend an unpaid training session. Having looked at the amount of pandemics that China has caused, I unfortunately fear that we have more to come.</p>

<p><u>Language proficiency</u></p> <p>A licensing authority's test of a driver's proficiency should cover both oral and written English language skills.</p>	<p>Recommendation 10</p> <p>Minor policy amendment at Appendix D paragraph 1.8 to recognise the need of testing to also cover written English and basic maths (<i>updated test already in use</i>)</p>
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<p>Consultee comments on recommendation 10;</p> <p>Agreed</p>

<p><u>Criminality checks for vehicle proprietors</u></p> <p>Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.</p> <p>Agreed</p>	<p>Recommendation 11</p> <p>Application/annual renewal form to be amended to;</p> <ul style="list-style-type: none"> • Require disclosure of unspent convictions, by applicant (or directors in the case of a company) • Make it a pre-requisite of licensing to submit a basic disclosure for applicant (or directors in the case of a company) • Exempt the above two points, if the applicant already holds a drivers licence and is therefore subject to further checks. <p>To update vehicle conditions to clarify that any change of directorship (if a company holds the licence) is to be notified within 14 days along with Basic DBS disclosure for any new/additional directors. Where the new director is a driver the requirement for a Basic Disclosure is not applicable.</p> <p>To amend the Taxi Licensing Policy to reflect the above changes</p>
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**Consultee comments on recommendation 11;
Should be on update service**

<p><u>In-vehicle CCTV</u></p> <p>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>Recommendation 12</p> <p>A separate consultation will be undertaken in 2021/22.</p>
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**Consultee comments on recommendation 12;
I will respond to the consultation 2001/22**

Private hire vehicle operator licensing

Criminality checks for private hire vehicle operators

Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually for individuals or company directors

Recommendation 13

Amendment of policy to require annual submission of basic disclosure from by the licence holder (directors in the event of a company). Where the applicant is a driver, this requirement is not applicable due to the additional checks performed.

Amendment Private Hire Operator conditions to reaffirm the above requirement

Amendment of Private Hire Operator conditions to require formal notification of any changes of any company directorship (if licence is held by a company) with Basic Disclosure certificate(s) being provided within 14 days of such change. Basic Disclosure certificates are not required if the new director is also a licensed driver.

**Consultee comments on recommendation 13;
Directors should have to be on the same update services as drivers. A year to someone untrustworthy is a long time**

Booking and dispatch staff

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, including evidence that they

Recommendation 14

Amendment PHO conditions and Taxi Licensing Policy to require that Private Hire Operators maintain a 'live' register of all staff that take bookings or dispatch vehicles. Such records shall include evidence that they have had sight of a basic disclosure (dated within a month of viewing) at the time of adding staff members.

<p>have seen a Basic Disclosure for those staff. This should tie into their written policy on employing ex-offenders.</p> <p>When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role</p> <p>Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.</p> <p>Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above.</p>	<p>Amendment of PHO conditions and Taxi Licensing Policy to state that when individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role</p> <p>Amendment PHO conditions and Taxi Licensing Policy to make it clear that where a Private Hire Operator outsources bookings or dispatch functions, the operator shall be required to evidence comparable protections are applied by the company to which they outsource work.</p> <p>PHO applications form to be amended to require a written policy on the employment of ex-offenders to booking and dispatch roles. This shall be compared with the threshold to obtaining a private hire vehicle operators' licence.</p>
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Consultee comments on recommendation 14; All booking staff to register for a DBS and their names to be forward to the council. Knowing when someone is on holiday and the house is potentially empty, is a golden opportunity to a thief.

<u>Record Keeping</u> <p>Licensing authorities should as a minimum require private hire vehicle operators to record</p>	Recommendation 15 <p>Minor amendment to Taxi Licensing Policy and Private Hire Operator licence conditions to include updated/increased list of records required to be kept.</p>
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<p>the following information for each booking, retained for a minimum of six months;</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. 	
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Consultee comments on recommendation 15;

Agreed

<p><u>Driver exhaustion</u></p> <p>Recommendation additional to statutory guidance to ensure that the risks of low pay and over-working is taken into account by operators in dispatching drivers that may otherwise be exhausted and unfit to drive.</p>	<p>Recommendation 16</p> <p>Amendment to Private Hire Operator licence conditions and Taxi Licensing Policy to make it a requirement for the operator to conduct and maintain an up to date risk assessment relating to working hours of drivers taking account of; hours driving, hours on standby, rest periods, rate of pay/income, and, other work whether or not related to driving.</p>
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Consultee comments on recommendation 16;

This is too difficult to comply with. During busy times the controller, who may well be the owner, does not have the time. Day shift drivers collect the evening shift driver, who drops them off. This gives no opportunity for a controller to evaluate the visual

tiredness of the driver. It does not allow for questioning over the radio as this is needed to allocate jobs and take details (see 15) How does the controller know if the driver is telling the truth about any other work? What proof have either got about what was said. If a driver has paid for fuel or covered mainly account work, they will not go to the office. This can happen for several days. What about independent drivers? A driver finishing late will drop the car off and post the keys through the letterbox. You are then relying on another driver to decide if his colleague is over tired at the end of a shift. There is too much information required and it presents too many problems

<u>Self-reporting</u> Recommendation additional to statutory guidance to ensure that incidents relating to crime & disorder or public safety are subject to self-reporting requirements.	Recommendation 17 Amendment to Private Hire Operator licence conditions and Taxi Licensing Policy to make it a requirement for the operator to report to the licensing authority within 7 days any; ICO-reportable data breaches, changes of dispatch and record keeping systems, and, management/system faults (such as where a vehicle has been driven without insurance cover, or where a vehicle has been driven without a valid driver's licence being held).
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Consultee comments on recommendation 17;
Has the taxi trade been given a list of the Information Commissioners Office rules? If not, how do we know if we break them?

Enforcing the Licensing Regime	
<u>Joint authorisation of enforcement officers</u> 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.	Recommendation 18 No need has currently arisen, however this option is to be explored with the Kent & Medway Licensing Steering Group as and where necessary.

Consultee comments on recommendation 18;

All the time you have taxis licenced in one borough and working entirely in another, there are problems. It would be helpful if they stopped pinching jobs. All hackney officers being covered countrywide on a single licence, makes sense. Applying for permission and seeking co-operation individually does not

<u>Penalty Points System</u> 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.	Recommendation 19 Points based system to be updated to include changes under the provision of the statutory guidance, and to ensure that the number of points accords to the severity of such breach.
Consultee comments on recommendation 19; Agreed	

Other comments Consultee comments on overall changes; The problem is that many people get in a taxi a few times and assume they know it all. Their advice no matter how well meant is often illogical and creates more problems than it solves. The best way would be to (post covid) get reps from the different groups around the table and remember to include the taxi trade. All too often a carrot is dangled in front of groups, promising that a certain action will solve their problem. It does not. Somehow the taxi trade is not there to tell them reality. Look at the buzzer on the taxi stand, extra disabled vehicles that get around actually ever picking up the disabled. Proposed CCTV that drivers cannot afford to have installed. Ask user groups and they will think it's a wonderful idea
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Respondent details	
Q1 - Name:	[REDACTED]
Q2 – Company/organisation or capacity in which you are responding	Taxi Rep
Q3 - Are you happy to be contacted about your response if needed?	Yes
Q4 - If yes to Q3, please provide contact details	[REDACTED]