

Report to	On
Licensing and Public Safety Committee	Tuesday, 8 June 2021



Title	Report of
Statutory Taxi & Private Hire Vehicle Standards	Director of Planning and Development

Is this report confidential?	No
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### Purpose of the Report

1. To inform members of the Licensing and Public Safety Committee, about the recently published 'Statutory Taxi & Private Hire Vehicle Standards' issued by the Department for Transport (DfT).

### Recommendations

2. To note the contents of the report.
3. To consider the proposed changes to the SRBC Taxi Licensing Policy in line with the recommendations from the Department for Transport - Statutory Taxi & Private Hire Vehicle Standards.
4. To agree that the licensing section undertake a consultation exercise with stakeholders on the proposed changes to the Taxi Licensing Policy..
5. To agree to receive a report on the outcome of the consultation exercise at a future meeting.

### Reasons for recommendations

6. The Department for Transport has recently published guidance under section 177 of the Policing and Crime Act 2017 entitled "Statutory Taxi & Private Hire Standards."
7. South Ribble Borough Council as Licensing Authority, which has licensing functions under taxi and private hire vehicle legislation, has a legal duty to have regard to this guidance.

### Other options considered and rejected

8. There are no other options it is a statutory requirement. The DfT makes it very clear, that licensing authorities must follow this guidance.

### Corporate outcomes

9. The report relates to the following corporate priorities:

An exemplary council	x	Thriving communities	X
A fair local economy that works for everyone		Good homes, green spaces, healthy places	

## Background to the report

10. Section 177 of The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services.
11. The Statutory Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the DfT Best Practice Guidance.
12. The focus in these standards is on protecting children and vulnerable adults, but all passengers will benefit from the recommendations in the report.
13. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector across all local authorities.
14. The Standards contains a number of recommendations regarding matters connected to taxi and private hire licensing functions including:
  - Criminality checks for licence holders
  - Working with the Police
  - Sharing information with other licensing authorities
  - Dealing with complaints about drivers and operators
  - Training for Members
  - Criminal convictions and rehabilitation of offenders
  - Safeguarding awareness advice, guidance and training for drivers
  - Language proficiency
  - CCTV in licensed vehicles
  - Regulation of booking and dispatch staff
  - Record keeping

## Changes required within the SRBC Taxi Licensing Policy.

15. Within the Statutory Standards guidance document attached to this report as Background document 1, 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.”
16. The Statutory Standards recommends that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire licensing, including the relevance of convictions, a ‘fit and proper person’ test, licence conditions and vehicle standards. The SRBC Taxi Licensing Policy has been in place since 2016. It is available for public inspection via the council’s website.

17. Since the SRBC Taxi Licensing Policy was first adopted by this committee in 2016, various changes and amendments have already been made. With the hard work of officers and members over the last 5 years, the SRBC Taxi Licensing Policy is recognised as a robust policy. Nevertheless, some changes are required to bring the policy up to the statutory standards set by the DfT. It should be noted with satisfaction that the authority's current taxi licensing policy overall is broadly compliant with the majority of the DfT recommendations.
18. Officers have studied the statutory standards document and identified the following changes, to be made within the authority's taxi licensing policy, from the DfT statutory standards that are required as below;

### **Formalisation and adoption of a clear whistleblowing policy, covering the Licensed Taxi Trade.**

19. The Statutory Standards refer to the licensing authority having a robust whistleblowing policy, for staff employed at the authority, so that effective internal procedures are in place for staff to raise concerns about the application of the licensing authority's policies and for any concerns to be dealt with openly and fairly. The Council already has such a policy in place which can be found at:-  
<https://www.southribble.gov.uk/whistleblowing?action=Print&model=%231227+-+%27Whistleblowing+policy%27%3A+document>

The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct.

The Licensing section is of the view that a "whistleblowing policy" should also be available to cover the licensed trade, so that if they see anything at work they can report it to the Licensing team confidentially. Please see attached appendix 1 to this report for the details of proposed whistleblowing policy wording. Once consulted upon and agreed a section will be made within the taxi licensing page within the council's own website, for drivers to report allegations of illegalities or wrong doings in the taxi/private hire trades regulated by South Ribble Borough Council Licensing.

### **The Disclosure and Barring Service**

20. The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults.

The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.

The statutory standards requires licensing authorities to perform update service checks every 6 months. Currently the SRBC Taxi Licensing Policy has no time scales that checks should be performed, but officers written procedures, requires officers to perform these checks every 12 months on its licenced drivers' records.

The Statutory guidance states that Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so.

The taxi licensing policy states that drivers should complete a declaration of convictions every 12 months. To stop any confusion for drivers this statement has been removed out of the proposed policy as drivers are required to report any convictions received anyway within 48 hours. The proposed policy will also amend a part of the conviction policy to allow it to comply with the Statutory Guidance.

The wording in the policy requires to be changed to meet these requirements and can be found attached to this report as Appendix 2.

### **Referrals to the Disclosure and Barring Service (DBS)**

- 21.** The statutory standards state that *“referrals to the Disclosure and Barring Service and the Police In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS.”*

A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.

The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role.

The statutory standards recommends that licensing authorities should make a referral to the DBS when it is thought that:

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

If the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list. These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is available

Please see attached appendix 2, proposed new wording to be added to section 5.5 of the taxi licensing policy regarding DBS checks.

### **CSE Training - County Lines Framework**

- 22.** The current policy states that the type required training is in the form of the online / e-learning training course on Child Sexual Exploitation (2017) run by the Lancashire Safeguarding Children’s Board.

This training has now been discontinued by Lancashire County Council, and officers have struggled to find an alternative course, that is either to the same standard or isn’t too onerous for the level of taxi drivers.

Officers have created an alternative training package that is to be used as a temporary fix until an alternative package is found, but this is not an online/ eLearning package, so does not fully comply with the current policy wording.

This training package contains all the relevant sections that the training provided by Lancashire Safeguarding Children's Board to an equivalent standard.

Please see attached new policy wording attached to this report as Appendix 3, to accommodate the change to the type of training package currently available.

The Statutory Standards recommend that the licensing authority provide safeguarding advice, guidance and training to drivers which includes 'County Lines' exploitation. Officers have now added the county lines framework to our Driver CSE safeguarding awareness training. This includes further training on such topics as;

- Children and young people travelling in taxis or private hire vehicles alone;
- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

### **Conviction Policy Amendments.**

**23.** The Statutory standards recommends to licensing authorities within the annex on page 35 of background document 1, on the assessment of previous convictions in the determination of the suitability of taxi and private hire vehicle licensees.

Officers have compared the recommended timescales for each offence to that within this authorities Taxi Licensing policy, whilst broadly compliant, the DfT Recommendations do recommend for some offences a longer period that should elapse after the completion of the sentence imposed:

The following changes are required to the taxi licensing policy, the change to policy wording can be found within Appendix 4 titled "convictions policy amendments".

- a) **Possession of a weapon** - Increase from 3 years to 7 Years
- b) **Drink driving** – Increase from 5 years to 7 years
- c) **Using mobile phone whilst driving** – Increase from intermediate offence to major traffic offence
- d) **Dishonesty** – Increase from 5 years to 7 years
- e) **Exploitation**- Wording added to Policy
- f) **Discrimination** – Wording added to policy

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.

### **Fit and proper Test**

**24.** 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 licensed driver.

Since 2016 the taxi licensing policy has used a fit and proper assessment of our licenced drivers both before licenses are issued and for current licenced drivers.

The DFT Statutory standard proposes a slightly different wording for the assessment of drivers to be “fit and Proper”. These changes can be found within appendix 5 attached to this report.

**Expedited process- to be added in policy reflecting badge to be issued for remaining life of licence, for a driver after a successful appeal.**

25. Following a revocation of a licence, a driver may choose to appeal the decision of the licensing authority to a court of law, which may result in the decision being overturned.

The statutory guidance states that a licensing authority should have an expedited process within its taxi licensing policy, reflecting reissuing the licence for remaining life of licence , for a driver after a successful appeal.

New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If the licence was revoked, an expedited re-licensing process used.

The Following Wording is proposed to be added to be added to SRBC Taxi Licensing Policy:

*In cases where a driver has successfully won an appeal challenge against a revocation of their Licence through the court procedure and is entitled to drive. The Council will expedite reissuing of the badge for the remaining life of Licence before revocation.*

**CCTV Policy**

26. The Statutory standards state in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller.

It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner’s view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

This Licensing Authority recently consulted the trade on the issue of CCTV in licensed vehicles. The consultation responses were provided to this committee and a decision was made not to currently mandate the use of CCTV.

In light of the statutory standards and guidance issued by the ICO on how data controllers can ensure compliance, officers propose to adopt the draft “Taxi CCTV Policy” attached to this report as appendix 6.

Although this doesn’t change the way CCTV can be used by our licenced drivers it does give clear indication of who is the data controller and who is the data processor, with the following set out requirements.

- The vehicle proprietor must be registered with the Information Commissioner’s Office and be able to evidence continuous registration throughout the lifetime of the licence.
- The system must not be used to record conversations between members of the public.
- Clearly visible and readable signage advising of the system and the Data Controller’s contact details, including ICO registration number, must be displayed in the vehicle.
- Data must be stored securely and only shared when lawful. .

The Taxi licensing policy will require the below changes to wording;

### **Current Policy Wording**

#### 6.13 CCTV

The Council recommends the use of CCTV systems in vehicles for the safety of both the driver and passenger.

CCTV or any other image recording device may be used within a Hackney Carriage subject to the Council being given prior notification of the installation.

CCTV systems must comply with the current data protection requirements as directed by the Information Commissioner.

Where CCTV is installed in a vehicle, there must be a minimum of 2 signs which are clearly visible to passengers, advising them of the presence of CCTV.

CCTV systems must be capable of storing image/audio files in a manner which prevents them being downloaded or viewed by the driver or any other person travelling in the vehicle.

The storage device must be encrypted, and image/audio files may only be downloaded by an authorised officer of the Council or a Police Constable.

The CCTV system supplier shall furnish the Council with de-encryption software at no cost to the Council, along with a lifetime licence for the use of such software as may be required.

### **Proposed Wording**

#### 6.13 CCTV

The Council has adopted a specific and distinct Hackney and Private Hire Vehicle CCTV Policy. Please refer to this document for details of the Council’s approach to the use of CCTV within licenced vehicles by this authority.

## **Medical Fitness Policy**

- 27.** Within the current taxi licensing policy, officers have found a contradiction in the wording between the wording in section “5.6 Medical Fitness” and that within the actual medical form.

The taxi licensing policy states that “Medical certificates completed by the driver’s own GP are required on first application and then every five years until the driver reaches the age of 65 and thereafter every year.

Whereas the Group 2 Medical Examination Report Form found on page 39 of the taxi licensing policy states - This form is to be completed by the applicant’s own General Practitioner (GP) **or any other doctor with FULL ACCESS to applicant’s medical records** and is for the confidential use of the Licensing Authority.

With changes to technology and medical records now being digitally recorded, drivers medical records can be accessed by any registered General Practitioner, not just the drivers own.

Drivers often struggle to obtain appointments with their own GP and officers feel providing the drivers previous medical records are accessed, any GP can perform the medical examination. ( as per the statement within the medical form).

Officers proposed to change the policy wording to match that currently within the Group 2 Medical Examination Report Form. The new proposed wording can be found attached to this report as Appendix 7.

## **To create a consultation document highlighting who has taken part in the consultation.**

- 28.** Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Currently when significant changes are made, the licensing authority consults the trade and various stakeholders. The consultation is also placed on the council’s website, so such consultation includes not only the taxi and private hire vehicle trades, but also groups likely to be the trades’ customers.

Although this is not a policy change, officers thought it necessary to update members of the proposed consultation document to be used going forward. Please find attached to this report as appendix 8, a proforma document to record who has been consulted, when they have been consulted, and they type of consultation being carried out to be used on all consultations going forward.

- 29.** In all other respects, the current SRBC Taxi Licensing Policy is at least equal to and in some areas actually exceeds the expectations of the Statutory Standards.

## **Equality and diversity**

30. none

**Air quality implications**

31. none

**Comments of the Statutory Finance Officer**

32. There are no direct financial implication to the Council as a result of these proposed changes.

**Comments of the Monitoring Officer**

33. Licensing authorities are under a legal duty, under section 177 of the Policing and Crime Act 2017, to have regard to the statutory standards. Local authorities are required to consult relevant bodies/trade when significant changes are being made to policy.

**Background documents**

Background Document 1 - Statutory Taxi & Private Hire Vehicle Standards

**Appendices**

Appendix 1 - Whistle blowing policy

Appendix 2 - DBS Policy Wording

Appendix 3 - CSE Policy Wording

Appendix 4 - Conviction Policy Wording

Appendix 5 - Fit and Proper Person Test

Appendix 6 - CCTV Policy

Appendix 7 - Medical Examination Policy Wording

Appendix 8 - Consultation Proforma

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