**Changes required within the SRBC Taxi Licensing Policy.**

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.”

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.

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 l the

majority of the DfT recommendations.

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.**

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**

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.

**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**

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 a 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.**

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**

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”.

**Expedited process- to be added in policy reflecting badge to be issued for remaining**

**life of licence, for a driver after a successful appeal.**

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**

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**

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.