

Report of	Meeting	Date
Director of Planning and Development (Introduced by the Cabinet Member Planning, Business Support and Regeneration)	Council	Tuesday, 26 January 2022

Statutory Taxi & Private Hire Vehicle Standards

Is this report confidential?	No
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Is this decision key?	Not applicable
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Purpose of the Report

1. Considering the outcome of the consultation exercise undertaken between - 9th July 2021 – 20th August 2021, and the approval by the Licensing & Public Safety Committee, this report invites members of the Council to formally adopt the changes to the Taxi Licensing policy following the recommendations from the department for transport's statutory Taxi and Private Hire Vehicle Standards.

Recommendations to Council

2. Members are requested to note the contents of the report.
3. Members are requested to formally adopt the agreed proposal following the approval by the Licensing and Public Safety Committee on the 7th December 2021.

Reasons for recommendations

4. Minor policy amendments are required to the existing policy to meet the implied DFT Statutory Standards. The necessary changes were highlighted in a report taken to committee in June 2021.
5. Within the Statutory Standards guidance document, 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."

Other options considered and rejected

6. Options available are to;
 - a) Keep the policy as it is and make no changes
 - b) Agree to the changes proposed

Corporate priorities

7. The report relates to the following corporate priorities:

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

Background to the report

8. 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.
9. 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.
10. The focus in these standards is on protecting children and vulnerable adults, but all passengers will benefit from the recommendations in the report.
11. There is consensus that common core minimum standards are required to regulate better, the taxi and private hire vehicle sector across all local authorities.
12. 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
13. The Standards states that the Department for Transport “expects these recommendations to be implemented unless there is a compelling local reason not to.”
14. The 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.
15. The SRBC Taxi Licensing Policy has been in place since 2016. It is available for public inspection via the council’s website.

16. Since the SRBC Taxi Licensing Policy was first adopted by the Licensing and Public Safety Committee in 2016, various changes and amendments have already been made.
17. With the hard work of officers and members over the last 5 years, the SRBC policy is recognised as a robust and up to date policy, some changes are still required to bring the policy up to the new statutory standards set by the DfT. Those changes can be found between section 27 – 61 of this report.
18. It should be noted with some satisfaction that the authority's current taxi licensing policy overall is broadly compliant with all the DfT recommendations.

Previous Licensing and Public Safety Committee meetings

19. A report highlighting the required changes to policy was presented at committee on 08/06/2021. The report is attached as Background document 1.
20. Following the committee approval to consult stakeholders regarding the changes required, a six-week consultation was conducted from 9th July 2021 – 20th August 2021.

The consultation highlighted the required amendments to our policy and invited feedback from stakeholders.

21. On 7th December 2021, members of the Licensing and Public Safety Committee received a feedback report from the consultation exercise that took place between 9th July 2021 – 20th August 2021 – see background document 2.
22. The officer advised members although the policy was broadly compliant, some amendments were necessary in order for the policy to comply with the implied Statutory Standards DfT. Following consultation, only one response had been received and was all in favour of the changes.
23. Members were advised that CCTV had been omitted from the policy changes and would be reconsidered at a later date as part of its own report, as it did not need to be addressed as part of the DfT changes as a policy for CCTV already existed and is compliant with the standards.
24. The officer advised that training would be provided to members of the committee in the next twelve months and would take into consideration the implications of GDPR.
25. Having received only one consultation response during the consultation period, officers concluded due to the implied statutory nature of the changes needed, this has impacted on the number of responses to the consultation. The one response was in favour of all the changes being added to the policy and had no comments to make.
26. The committee considered the report and recommended the proposed policy changes be referred for decision by full council. Details of that report including the attached consultation response can be found attached as background document 2.

Changes required within the SRBC Taxi Licensing Policy.

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

27. The Statutory Standards refer to the licensing authority having a robust whistleblowing policy, 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.
28. 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.
29. Once 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

30. 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.
31. 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 within officers written procedures, requires officers to perform these checks every 12 months on its licenced drivers' records.
32. 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.
33. The taxi licensing policy currently 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.

Referrals to the Disclosure and Barring Service and the Police

34. 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."*
35. 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.
36. The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the DBS.

37. 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;
38. 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.

CSE Training - County Lines Framework

39. 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.
40. This training has now been discontinued, 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.
41. 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 provided to an equivalent standard.
42. 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.
43. In response to a member enquiry at the meeting on 07/12/2021, it was confirmed that no suitable alternative CSE training had been found by officers and that neighbouring authority, Chorley Borough Council were also looking for a new package.
44. Training had been found online but this was two hours long aimed at teachers and other professionals in that industry and was not a suitable replacement.

45. Officers confirmed that the training they had designed, is to the same standard as the previous online training used and has been adapted to include County Lines.

They confirmed that they actually preferred this method as it could be adapted to suit any ongoing current issues.

Conviction Policy Amendments.

46. 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.
47. 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:
48. The following changes are required to the taxi licensing policy;
- 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
49. 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

50. 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, line to be added in policy reflecting badge to be issued for remaining life of licence, for a driver after a successful appeal.

51. Following a revocation of a licence, should further information be received that alters the balance of probability of a decision previously made. 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.
52. 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, for example, the

allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

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.

53. In response to a member enquiry at the meeting on 07/12/202, Members discussed changing the heading to 'Statement of Intent' Officers were open to amending the wording as Members desired. It was agreed to change the wording to 'Expedited Policy Process'.
54. The officer clarified a Member query whether driver's whose license had been revoked could resume work immediately after a successful appeal. The expedited policy would speed that process up. Officers also answered a follow up query by confirming that any in date documentation would be valid for the duration of the licence.

Medical change wording

55. 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.
56. 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.

57. 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.
58. 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.

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

59. 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.

60. Although this is not a policy change, officers thought it necessary to update members of the proposed consultation document to be used going forwards. Please find attached to this report within background document 1, 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.
61. All new proposed changes to the wording within the taxi licensing policy, to meet the requirements of the above sections, required policy changes can be found attached to the report of 08/06/2021, as background document 1.

Proposal

62. Members of The Council are invited to consider the feedback given from the two previous Licensing and Public Safety Committee's and the consultation exercise.
63. Members are asked to take the decision to formally adopt the proposed changes stated above within this report and the policy wording attached to this report as background document 1, to the South Ribble Borough Council Taxi Licensing Policy.

Climate change and air quality

64. The work noted in this report does not impact the climate change and sustainability targets of the Councils Green Agenda and all environmental considerations are in place.

Risk

65. The Standards states that the Department for Transport "expects these recommendations to be implemented unless there is a compelling local reason not to. If the Council fails to implement the Regulations, it may be challenged when exercising its functions.

Equality and diversity

66. Equality and diversity implications are considered by the Taxi and Private Hire Vehicle Standards.

Comments of the Statutory Finance Officer

67. There are no direct financial implications of this report.

Comments of the Monitoring Officer

68. There is a requirement for any changes to the Taxi policy to be approved by Full Council, which is the request for Members to approve

Background Documents

Background document 1 - Report to Licensing and Public Safety Committee 08/06/2021, is accessible using the below link and can be found at agenda item 66.

<https://southribbleintranet.moderngov.co.uk/ieListDocuments.aspx?CId=483&MId=2145&Ver=4>

Background Document 2 – Report to Licensing and Public Safety Committee 07/12/2021, is accessible using the below link and can be found at agenda item 7.

<https://southribbleintranet.moderngov.co.uk/ieListDocuments.aspx?CId=483&MId=2197&Ver=4>

Appendices

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