



Cabinet

Agenda

Tuesday, 15th March, 2022
at 3.30 pm

in the

Assembly Room,
Town Hall,
Saturday Market Place,
King's Lynn

available for the public to view on [WestNorfolkBC on YouTube](#)



King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
Telephone: 01553 616200

CABINET AGENDA

DATE: CABINET - TUESDAY, 15TH MARCH, 2022

**VENUE: ASSEMBLY ROOM, TOWN HALL, SATURDAY
MARKET PLACE, KING'S LYNN**

TIME: 3.30 pm

As required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 - Items 14 below will be considered in private.

Should you wish to make any representations in relation to the meeting being held in private for the consideration of the above item, you should contact Democratic Services

1. MINUTES

To approve the Minutes of the Meeting held on 9 February 2022 (previously circulated).

2. APOLOGIES

To receive apologies for absence.

3. URGENT BUSINESS

To consider any business, which by reason of special circumstances, the Chair proposes to accept, under Section 100(b)(4)(b) of the Local Government Act 1972.

4. DECLARATIONS OF INTEREST

Please indicate if there are any interests which should be declared. A declaration of an interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the member should

withdraw from the room whilst the matter is discussed.

These declarations apply to all Members present, whether the Member is part of the meeting, attending to speak as a local Member on an item or simply observing the meeting from the public seating area.

5. CHAIR'S CORRESPONDENCE

To receive any Chair's correspondence.

6. MEMBERS PRESENT UNDER STANDING ORDER 34

To note the names of any Councillors who wish to address the meeting under Standing Order 34.

Members wishing to speak pursuant to Standing Order 34 should inform the Chair of their intention to do so and on what items they wish to be heard before a decision on that item is taken.

7. CALLED IN MATTERS

To report on any Cabinet Decisions called in.

CAB103 Members Allowances Independent Review from the meeting on 9 February 2022 was called in, and considered and upheld at the Corporate Performance Panel meeting on 3 March 2022.

The CPP minute will follow so the recommendations may be considered.

8. FORWARD DECISIONS (Pages 6 - 10)

A copy of the Forward Decisions List is attached

9. MATTERS REFERRED TO CABINET FROM OTHER BODIES (Page 11)

To receive any comments and recommendations from other Council bodies which meet after the dispatch of this agenda.

Environment and Community Panel – 15 February made comments on the Hackney Carriage and Private Hire Licensing procedures item – attached

Corporate Performance Panel comments from the meeting on 3 March 2022 will be circulated.

10. REVIEW OF TAXI CONDITIONS (Pages 12 - 63)

11. UNREASONABLE COMPLAINANTS POLICY (Pages 64 - 77)

12. BIODIVERSITY TASK GROUP (Pages 78 - 81)

13. EXCLUSION OF THE PRESS AND PUBLIC

The Cabinet is asked to consider excluding the public from the meeting under section 100A of the Local Government Act 1972 for consideration of the item below on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 1 of Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

PRIVATE ITEM

Details of any representations received about why the following reports should be considered in public will be reported at the meeting.

14. LEGAL SERVICES REVIEW (Pages 82 - 94)

To: Members of the Cabinet

Councillors R Blunt, S Dark (Chair), A Dickinson, P Kunes, A Lawrence,
B Long, G Middleton (Vice-Chair) and S Sandell

For Further information, please contact:

Sam Winter, Democratic Services Manager 01553 616327
Borough Council of King's Lynn & West Norfolk
King's Court, Chapel Street
King's Lynn PE30 1EX

FORWARD DECISIONS LIST

Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
15 March 2022						
	Hackney Carriage and Private Hire Licensing Procedures and Conditions Review	Non	Council	Environment Assistant Director – S Ashworth		Public
	Review of Legal Services	Key	Council	Leader Chief Executive		Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority)
	Unreasonably Persistent Complainants Policy	Non	Council	Corporate Services Chief Executive		Public
	Setting up Bio Diversity Task Group	Non	Cabinet	Corporate Services/Environment Asst Dir – B Box		Public
	Members Allowances Review – call in	Non	Council	Finance Monitoring Officer		Public

Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
6 April 2022						

	Guildhall and Creative Hub Options including Governance	Non	Council	Business, Culture and Heritage – G Middleton Asst Director – D Hall		Public
	Planning Scheme of Delegation/Sifting Panel	Non	Council	Development & Regeneration Asst Director S Ashworth		Public
	Lynnsport One	Key	Council	Regeneration & Development Asst Dir Companies & Housing Delivery – D Ousby		Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority)
	Members Community Grants Fund	Non	Council	Leader Assistant to CEx		Public
7	Review of Governance of Council Companies	Non	Cabinet	Leader Chief Executive		Public
	Freedom of the Borough - amendments	Non	Council	Leader Chief Executive		Public
	Custom and Self Build Site – Stoke Ferry	Non	Cabinet	Regeneration and Development Assistant Director - D Hall		Public
	Support in Safe Accommodation for Norfolk – 2021/2024 – Housing related issues.	Non	Council	People & Communities Assistant Director - D Hall		Public
	Asset Management – Land and Property	Key	Cabinet	Property Asst Dir Property and Projects		Private - Contains exempt Information under para 3 – information relating to the business affairs of any person (including the authority)
	Memorials Safety Policy	Non	Council	Corporate Services and Environment		Public

				Asst Director – M Chisholm		
	Enforcement policy	Non	Council	Environment Asst Director J Greenhalgh		Public
	Risk Management Policy	Key	Council	Chief Executive Finance		Public
	Balloon and Lantern report	Non	Cabinet	Corporate Services and Environment Asst Director – M Chisholm		Public

Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
21 June 2022						
	RIPA/non-RIPA policy and operating procedures	Non	Council	Leader Asst Dir		

Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
2 August 2022						

Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
20 September 2022						
	Procurement Strategy	Non	Cabinet	Finance Asst Dir – D Ousby		Public

Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
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15 November 2022						
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Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
17 January 2023						

Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
7 February 2023						

Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
7 March 2023						

Date of meeting	Report title	Key or Non Key Decision	Decision Maker	Cabinet Member and Lead Officer	List of Background Papers	Public or Private Meeting
18 April 2023						

Meetings in new year

	Notice of Motion 7-21 – Councillor Kemp – Equalities	Non	Council	Leader Asst Dir B Box		Public
	Housing Delivery Test Action Plan	Non	Cabinet	Development & Regeneration Asst Director S Ashworth		Public

	Five Year Housing Land Supply assessment	Non	Council	Development & Regeneration Asst Director S Ashworth		Public
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RECOMMENDATIONS TO CABINET – 15 MARCH 2022 FROM THE ENVIRONMENT AND COMMUNITY PANEL MEETING ON 15 FEBRUARY 2022

EC61: CABINET REPORT – HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING PROCEDURES AND CONDITIONS

[Click here to view the recording of this item on You Tube.](#)

The Licensing Enforcement Officer presented the Cabinet report and explained the revisions proposed for the Hackney Carriage and Private Hire Licensing Procedures and Conditions. He highlighted the changes related to Electric Vehicles, Age and Mileage.

He also outlined the consultation process and representations received.

The Chair thanked the Licensing Enforcement Officer for his report and invited questions and comments from the Panel, as summarised below.

Councillor de Whalley made reference to the age policy for Electric Vehicles and asked why mileage had not also been increased. The Licensing Enforcement Officer explained that the mileage had not been increased as wear and tear on vehicles would be the same regardless of the type of engine.

In response to a question from Councillor Moriarty, the Licensing Enforcement Officer explained that Licence Holders had to undertake Safeguarding Training and were required to report any incidents to the Council or the Police as appropriate. Any incident reported to the Council was held on the system and investigated as required.

Councillor Moriarty queried the track changes in the document and it was explained that the document was in a link within the Cabinet Report.

RESOLVED: That the Environment and Community Panel support the recommendations to Cabinet as set out below.

That the Council be invited to adopt the revised Hackney Carriage and Private Hire Licensing Procedures and Conditions Booklet.

Agenda Item 10

Borough Council of King's Lynn & West Norfolk
REPORT TO CABINET

Open	Would any decisions proposed :		
Any especially affected Wards	(a) Be entirely within cabinet's powers to decide	NO	
	(b) Need to be recommendations to Council	YES	
	(c) Be partly for recommendations to Council and partly within Cabinets powers –	NO	
Lead Member: Paul Kunes E-mail: paul.kunes@west-norfolk.gov.uk		Other Cabinet Members consulted:	
		Other Members consulted: Licensing & Appeals Panel Members	
Lead Officer: Marie Malt E-mail: marie.malt@west-norfolk.gov.uk Direct Dial: 01553 616786		Other Officers consulted: Stuart Ashworth, Geoff Hall, Licensing Team	
Financial Implications NO	Policy/Personnel Implications NO	Statutory Implications (incl S.17) YES	Risk Management Implications YES
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s)			

Date of meeting: 15th March 2022

TITLE: Review of Hackney Carriage & Private Hire Licensing Procedures and Conditions

Summary

The Department for Transport published Statutory Standards in July 2020 setting out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable. Licensing Authorities were requested to consider the Standards by the end of January 2021, and are expected to make appropriate changes to their policies and procedures in early 2022.

The purpose of this report is to incorporate the changes within the statutory standards into the Council's existing taxi and private hire procedures and conditions, and to make further amendments to the same regarding the age/mileage and testing requirements of licensed vehicles.

Recommendation

That the Council be invited to adopt the revised Hackney Carriage and Private Hire Licensing Procedures and Conditions document.

Reason for Decision

Changes to the existing Hackney Carriage and Private Hire Licensing Procedures and Conditions document are required to incorporate Statutory Standards for the protection of the travelling public. Additional changes to the age and mileage of licensed vehicles are proposed to assist with financial hardship of the licensed trade, alongside additional vehicle testing requirements to ensure vehicle safety.

1.0 Background

1.1 On 21 July 2020, the Department of Transport issued Statutory Taxi & Private

Hire Vehicle Standards for the first time since their last Best Practice Guidance was issued in 2010.

- 1.2 Under the Policing and Crime Act 2017 the Secretary of State for Transport is enabled to issue statutory guidance on the exercising of taxi and private hire vehicle licensing functions to protect children and vulnerable individuals when using these services.
- 1.3 Information detailing the reasoning for the recommendations is contained within the Department for Transport's Standards document which is attached to this report as Appendix 1.
- 1.4 Full Council approved existing hackney carriage and private hire licensing procedures and conditions on 19th January 2017, a copy of which is available at following link –
<https://west-norfolk.gov.uk/taxi-private-hire-conditions-current>

2.0 Options Considered / Consultation

- 2.1 A summary of the Department for Transport's recommended changes was included within a report to and agreed by Members of the Licensing & Appeals Panel in January 2021.
- 2.2 Consultation letters were sent to all members of the licensed taxi and private hire trade and neighbouring licensing authorities on 13th September 2021, with an end of consultation date of 13th December 2021. The proposed changes were also present on the Council's website.
- 2.3 No representations were received in response to the Department of Transport's Statutory Standards. However representation was received from the trade requesting a review of the age/mileage policy for licensed vehicles. A summary of all representations received is attached to this report as Appendix 2.
- 2.4 In liaison with the Chair of the Licensing & Appeals Board, Portfolio holder for licensing, and members of the trade, changes to the existing age/mileage policy have been proposed.

3.0 Policy Implications / Proposals

- 3.1 A summary of the proposed changes can be found attached to this report as Appendix 3.
- 3.2 The full revised conditions and procedures document incorporating the proposed changes can be found online using the following link –
<https://west-norfolk.gov.uk/taxi-private-hire-conditions-proposed>

Amendments have been colour coded as follows to highlight the changes –

- Blue – Department of Transport Statutory Standards
- Red – General minor amendments
- Green – Vehicle Age/Mileage and Testing requirements (further information below)

Borough Council of King's Lynn & West Norfolk

Proposed Conditions Petrol, Diesel and Hybrid Vehicles							Proposed Conditions for Fully Electric Vehicles						
Age (months)							Age (months)						
10yrs 10-12yrs 12-13yrs 13-14yrs 14-15yrs 15yrs +							10yrs 10-12yrs 12-13yrs 13-14yrs 14-15yrs 15yrs +						
up to 120 121 - 143 144-155 156-167 168-179 180+							up to 120 121 - 143 144-155 156-167 168-179 180+						
Mileage	100,000 or less						100,000 or less						
	110,000						110,000						
	120,000						120,000						
	130,000						130,000						
	140,000						140,000						
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390,000						390,000							
400,000						400,000							
410,000						410,000							

	Fully meets policy, granted using delegated authority
	May be granted in exceptional circumstances
	Vehicles in this category will be refused using delegated authority

- 3.5 Vehicle Testing Requirements The current policy requires all newly licensed vehicles to undertake and pass a DVSA MOT test and a BCKLWN compliance test at the same council approved testing station at the same time. Both tests are also required upon annual renewal of a vehicle licence. Vehicles over five years old are currently required to have a mid-licence six monthly compliance test.
- 3.6 It is proposed that vehicles presented for licensing for the first time are not required to have the DVSA MOT test where a DVSA MOT test has already been carried out on that vehicle within the preceding 14 days.
- 3.7 It is also proposed that vehicles over 5 years old be required to undertake the mid-licence six monthly compliance test and a DVSA MOT test. The addition of the six monthly DVSA MOT test alongside the compliance test ensures a recognised national standard is adhered to and safety critical faults are identified earlier on older vehicles.

- 3.8 In addition, all advisories identified as part of any DVSA MOT test, except for windscreen chips and corrosion, must be repaired within 28 days of the test, and the vehicle re-presented to the original testing station for examination. Although repair of advisories is not mandatory to obtain a DVSA MOT pass certificate, a tester is obliged to inform the vehicle owner if there are any faults found during the inspection which are close to failing and should be monitored and repaired as necessary. By ensuring these faults are repaired in a timely manner, potential safety issues are not left until they become a failure, which could occur whilst carrying passengers.

4.0 Financial Implications

- 4.1 There are no direct financial implications.

5.0 Personnel Implications

- 5.1 There are no personnel implications.

6.0 Environmental Considerations

- 6.1 By allowing fully electric vehicles to be older than hybrid and combustion engine vehicles upon initial grant of licence, this provides an incentive to encourage cleaner vehicles to be used within the Borough.

7.0 Statutory Considerations

- 7.1 Whilst there is no statutory timeframe to review taxi conditions and policies, the Department for Transport has recommended that a review is carried out at least every five year period although it can be reviewed and changed at any time if required.

8.0 Equality Impact Assessment (EIA)

- 8.1 Completed & included at the end of this report.

9.0 Risk Management Implications

- 9.1 The changes specified within the Department for Transport's Statutory Standards are targeted at protecting the public. Failure to implement the changes within our existing policy could compromise public safety. The safety risk of allowing older private hire and hackney carriage vehicles with more miles on to be licensed is balanced by requiring more frequent DVSA MOT tests on older vehicles and introducing the requirement for all advisories to be rectified.

10.0 Declarations of Interest / Dispensations Granted

- 10.1 There are no declarations of interest and no dispensations have been granted.

Attached Papers

Equality Impact Assessment

Appendix 1 Department for Transport Statutory Taxi and Private Hire Standards, July 2020

Appendix 2 Summary of Representations received

Appendix 3 Summary of Proposed changes

Background papers

Pre-Screening Equality Impact Assessment

Borough Council of
King's Lynn & West Norfolk



Name of policy/service/function	Licensing, Environmental Health and Planning				
Is this a new or existing policy/service/function?	Existing				
<p>Brief summary/description of the main aims of the policy/service/function being screened.</p> <p>Please state if this policy/service is rigidly constrained by statutory obligations</p>	<p>To incorporate Statutory Taxi & Private Hire Vehicle Standards published by The Department of Transport into our existing policy.</p> <p>Also to propose changes to the existing age/mileage and vehicle testing policy relative to hackney carriage & private hire vehicles.</p>				
Question	Answer				
<p>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
Age				√	
Disability				√	
Gender				√	
Gender Re-assignment				√	
Marriage/civil partnership				√	
Pregnancy & maternity				√	
Race				√	
Religion or belief				√	
Sexual orientation				√	
Other (eg low income)				√	



Department
for Transport

Appendix 1 to
Report to Cabinet
Dated: 15th March 2022
Re: Review of Hackney Carriage & Private
Hire Licensing Conditions & Procedures

Statutory Taxi & Private Hire Vehicle Standards

Contents

	Page
1. Introduction.....	4
2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards.....	6
3. Administering the Licensing Regime.....	8
Licensing polices	8
Duration of licences	9
Whistleblowing.....	9
Consultation at the local level	10
Changing licensing policy and requirements	10
4. Gathering and Sharing Information.....	12
The Disclosure and Barring Service	12
The Disclosure and Barring Service Update Service	13
Common Law Police Disclosure	13
Licensee self-reporting	13
Referrals to the Disclosure and Barring Service and the Police	14
Working with the Police	15
Sharing licensing information with other licensing authorities.....	15
Multi-agency Safeguarding Hub (MASH).....	16
Complaints against licensees	17
Overseas convictions	17
5. Decision Making	19
Administration of the licensing framework	19
Training decision makers.....	19
The regulatory structure	20
Fit and proper test	21
Criminal convictions and rehabilitation	21
6. Driver Licensing.....	23
Criminality checks for drivers.....	23
Safeguarding awareness.....	23
‘County lines’ exploitation	24
Language proficiency	25

7. Vehicle Licensing.....	26
Criminality checks for vehicle proprietors	26
In-vehicle visual and audio recording – CCTV.....	27
Stretched Limousines	28
8. Private Hire Vehicle Operator Licensing	29
Criminality checks for private hire vehicle operators.....	29
Booking and dispatch staff.....	30
Record keeping	31
Use of passenger carrying vehicles (PCV) licensed drivers	31
9. Enforcing the Licensing Regime	33
Joint authorisation of enforcement officers	33
Setting expectations and monitoring.....	33
Suspension and revocation of driver licences.....	33
Annex – Assessment of Previous Convictions	35
Annex – Disclosure and Barring Service information	37
Annex – CCTV Guidance	38
Annex - Staying Safe: Guidance for Passengers	40

1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 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. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 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 PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. 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.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. 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. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 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. Further guidance has been provided by the [DBS](#).

- 4.15 The Department 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.

- 4.16 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](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 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. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. 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.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

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?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **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.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 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. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- 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.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 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.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. 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.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 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.

8.12 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. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- 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.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. 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. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 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.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, 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.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

**Hackney Carriage & Private Hire Licensing Procedures & Conditions 2022
Summary of Responses to Consultation with the trade & Licensing Comments**

Topic	Trade Comments	Licensing Response
<p>1.</p> <p>Age / Mileage Policy</p>	<ul style="list-style-type: none"> • Current policies are forcing drivers to buy expensive vehicles which have increased in price during a period of economic downturn. • Policy is too restrictive on vehicle type especially within the age and mileage limits for new licences. • Drivers are forced to retire vehicles which are perfectly serviceable just because of Authority policies. • Other authorities are more lenient in their policies. 	<ul style="list-style-type: none"> • The Licensing Authority are not responsible for vehicle pricing or the downturn in economy but are willing to listen to representation from the trade. • Mileage limits for new licences have been reviewed and increased to mitigate rising costs without compromising standards and safety. • Age and Mileage limits for renewals have been reviewed and increased to extend the service life of vehicles with additional tests to ensure standards are not compromised. • Decisions made by other authorities should not dictate how BCKLWN define their standards. Whilst it is always prudent to monitor other authority standards, BCKLWN have high standards which should remain.
<p>Public Safety</p>	<ul style="list-style-type: none"> • As costs rise proprietors are cutting corners on vehicle maintenance. Second-hand parts are being used and worn-out parts are not being replaced promptly. • Drivers are working longer hours to make a living and are working when tired. • Lack of new drivers entering the trade will make it easier for unlicensed drivers and vehicles to ply for trade. • High costs of setting up as a driver may encourage previously licensed drivers to work unlicensed. 	<ul style="list-style-type: none"> • New standards in vehicle testing and maintenance are proposed to ensure safety of the public is not compromised. These standards will be enforced by the licensing team and the Authority's approved testing stations. • Unfortunately, there is nothing in law restricting Hackney Carriage or Private Hire driver's hours in the way that PCVs or HGVs are restricted. • Driver numbers are remaining steady at around 270. Very few reports have reached the team of unlicensed activity in the area. • All licensing fees are set in accordance with the Authority's costs. No profit is made and as such they cannot be reduced. The authority does not have any bearing on external costs such as vehicle purchase or insurance.
<p>Environmental Incentives</p>	<ul style="list-style-type: none"> • No Clean air initiative when other towns and cities are implementing these. 	<ul style="list-style-type: none"> • Licensing would not be the department to implement a clean air initiative within the borough. However, by retaining the initial 5 year age limit at first licence the most recent low emissions standards are

	<ul style="list-style-type: none"> No Incentives for drivers to switch to more environmentally friendly vehicles or indeed zero emissions. 	<p>always being implemented as vehicles are replaced.</p> <ul style="list-style-type: none"> There are currently no incentives to switch to zero emission vehicles. By increasing the limits in favour of electric vehicles over traditional internal combustion engine vehicles the price difference is negated somewhat, encouraging drivers to consider replacing current vehicles with zero emission fully electric vehicles.
2.		
Age / Mileage Policy	<ul style="list-style-type: none"> Entry level should be higher, especially mileage. Renewal level is restrictive and forcing perfectly good vehicles to be replaced. If the vehicles are maintained properly and pass the MOT they should be fine regardless of age or mileage. Currently a vehicle which cannot be renewed in West Norfolk at 9 years old with 350,000miles is acceptable for first licence in North Norfolk. Too large of a difference in standards. 	<ul style="list-style-type: none"> Mileage limits for new licences have been reviewed and increased to mitigate rising costs without compromising standards and safety. By keeping the mandatory 5 year age limit we ensure all latest safety and emissions standards are being introduced to the fleet. Age and Mileage limits for renewals have been reviewed and increased to extend the service life of vehicles with insurances in maintenance that standards are not compromised. Decisions made by other authorities should not dictate how BCKLWN define their standards. Whilst it is always prudent to monitor the standards of other authorities, BCKLWN have high standards which should remain.
Maintenance	<ul style="list-style-type: none"> To ensure standards remain in light of the above possibly make advisories on the MOT compulsory apart from windscreen. Possibly before next MOT or within 28 days. 	<ul style="list-style-type: none"> New standards in vehicle testing and maintenance are proposed to ensure safety of the public is not compromised. These standards will be enforced by the licensing team and the Authority's approved testing centres. These include making repairs to advisory items from the DVSA MOT compulsory with some exceptions.
3.		
Age Mileage	<ul style="list-style-type: none"> Would not like entry level requirements to change as believes this will result in sub-standard vehicles entering the fleet. Upper limits on renewals should be removed as long as the vehicle is properly maintained and passing all the required tests it should be able to continue to be licensed. 	<ul style="list-style-type: none"> While entry level mileage limits have been increased to widen the scope of vehicles available the standards for these vehicles are not changing and sub-standard vehicles will continue to be rejected. Upper limits have been increased both in age and mileage, but it is necessary to include an upper cap on both to ensure that older vehicles with lower emission and safety standards are replaced over time.

Hackney Carriage & Private Hire Licensing Conditions & Procedures Review

Summary of proposed changes – Statutory Standards (blue within revised conditions)	
Section/s	Change
The Purpose of Licensing - Drivers	<p>Addition of a description for the ‘fit and proper’ test.</p> <p>When considering whether an applicant or licensee is fit and proper to pose oneself the following question, ‘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 the day or night?’</p>
Application Process – DBS/Combined Driver’s Licences/Failure to provide information	Requirement to sign up to the DBS online update service to enable the licensing authority to routinely check for new information for all licensed drivers every 6 months.
Application Process – Certificate of good character	Requirement for new applicants to provide a certificate of good character from an overseas embassy when they have lived outside of the UK from the age of 10 years old.
Application Process - NR3 Check	The Borough Council has signed up to the National Register of Refusals and Revocations (NR3 register). This means that when an application for a taxi driver’s licence is refused, or when an existing taxi driver’s licence is revoked, that information will be placed on the register. The details of all new applicants will also be checked against the information held on the register.
Application Process – Operator’s application	A private hire operator must be a ‘fit and proper’ person to hold a licence and is required to provide a basic DBS disclosure upon initial application and annually thereafter. Note: Not required if enhanced disclosure already provided.
Application Process – Vehicle application	A vehicle licence holder must be a ‘fit and proper’ person to hold a licence and is required to provide a basic DBS disclosure upon initial application and annually thereafter. Note: Not required if enhanced disclosure already provided.
Combined Driver’s Licences / Private Hire Operators	Requirement of licence holder to report any convictions, charges, cautions etc within 48 hours.
Private Hire Operators	<p>Additional information required within operator booking information –</p> <ul style="list-style-type: none"> • Vehicle registration number • The name of the individual that responded to the booking request • The name of the individual that despatched the vehicle
Private Hire Operators	Requirement for operators to maintain a register of all non-licensed staff that take bookings or despatch vehicles. The register must contain a record that the operator has had sight of a basic DBS disclosure check for each member of staff.
Private Hire Operators	Operators must have a written process in place to assess previous convictions when employing ex-offenders as non-licensed staff.
Private Hire Operators	Where a PCV (over 8 seat vehicle) is despatched by a private hire operator, the operator must have the informed consent of the hirer to do so. The operator must inform the hirer that the driver of the PCV is subject to different checks than the driver of a private hire vehicle.
Guidelines Relating to the relevance of convictions	Several changes to the length of time an applicant/licence holder should be free of conviction/s.

Summary of other proposed changes (red within revised conditions)	
Section/s	Change
All	General tidy up of existing conditions and wording.
Altered Vehicles	Update to vehicle insurance loss categories in line with Gov changes.
Special event Vehicles	Update to historic vehicle category in accordance with DVLA taxation class.
Combined Driver's Licenses	Removal of requirement to provide and complete a DVLA mandate form and insertion of DVLA check code/online submission.
Immediate Suspension / Revocation	Update to Officer Job Titles.
Summary of changes relative to age/mileage of vehicles (green within revised conditions)	
Section/s	Change
Age Requirement	Maximum mileage at first licence increased to 100,000 miles. Additional scope for exceptional vehicles up to 4 years old up to 110,000 miles and between 5 and 6 years at 90,000 miles.
Age Requirement	New Vehicle License age limit for fully electric vehicles is up to 7 years old, with the same 100,000 maximum mileage. Additional scope for exceptional vehicles up to 6 years old up to 110,000 miles and between 7 and 8 years at 90,000 miles.
Age Requirement	Allow vehicles to be licensed up to 12 years old under 400,000 miles as standard. Extension can be applied for above this age with the limits of 30,000 miles per year of age of vehicle and exceptional standards as per current policy. Maximum age / mileage limit of 15 years or 400,000miles. No vehicles will be granted a renewal above either of these limits.
Age Requirement	Allow fully electric vehicles to be licensed up to 13 years as standard with the same extension criteria as above. This will encourage cleaner vehicles to be used within the Borough.
Vehicle Testing	Interim testing for vehicles over 5 years old to now include a DVSA MOT test as well as authority compliance test.
Vehicle Testing	All DVSA MOT advisories, except for windscreen chips and corrosion, must be repaired within 28 days of the test, and the vehicle re-presented to the original testing station for retest.
Vehicle Testing and Compliance standards	Vehicles at first licence with a valid DVSA MOT issued within previous 14 days will only need to pass the Authority Compliance test.

REPORT TO CABINET

Open/Exempt		Would any decisions proposed :			
Any especially affected Wards	Mandatory/	Be entirely within Cabinet's powers to decide		YES/NO	
	Discretionary /	Need to be recommendations to Council		YES/NO	
	Operational	Is it a Key Decision		YES/NO	
Lead Member: Stuart Dark E-mail: cllr.stuart.dark@west-norfolk.gov.uk			Other Cabinet Members consulted:		
			Other Members consulted:		
Lead Officer: Alexa Baker, Monitoring Officer E-mail: alexa.baker@west-norfolk.gov.uk Direct Dial: 01263 516006			Other Officers consulted:		
Financial Implications YES/NO	Policy/ Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO	Environmental Considerations YES/NO
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s)					

Date of meeting: 15 March 2022

REVIEW OF THE UNREASONABLE COMPLAINANTS POLICY

<p>Summary</p> <p>A review of the Unreasonable Complainants Policy (“the UC Policy”) has been undertaken by the Corporate Performance Panel (“CPP”) via an informal working group (“IWG”).</p> <p>On 1 February 2021, CPP recommended to Cabinet that changes be made to UC Policy and the Constitution, as proposed by the IWG.</p> <p>The Monitoring Officer has no objections to any of the proposed changes.</p> <p>Recommendation</p> <p>To consider the proposed changes to the UC Policy and Constitution as recommended by CPP, and:</p> <ol style="list-style-type: none"> 1. Consider whether to recommend any or all of the proposed changes to the UC Policy as set out at Appendix 1 to Full Council; and 2. Consider whether to recommend any or all of the proposed changes to the Constitution as set out at Appendix 2 to Full Council. <p>Reason for Decision</p> <p>It is a function of CPP to assist in advancing the development of effective policy for promoting or improving the economic, social and environmental wellbeing of the</p>

people and communities of King's Lynn and West Norfolk. CPP have reviewed the UC Policy and have recommended changes to the UC Policy and Constitution to Cabinet. If Cabinet are in agreement with some or all of the changes then these can be recommended to Full Council.

1 Background

On 8 November 2021 the Corporate Performance Panel resolved to set up an informal working group to the review of the Unreasonable Complainants Policy.

The purpose of this report is to set out the work of the duly constituted informal working group ("IWG") consisting of Cllr Ayres, Cllr Manning, Cllr Moriarty and Cllr Nash who met as a group on 24 November 2021 and 1 December 2021.

During the two meetings held, the IWG came to an agreement on proposed changes that it wished to recommend to CPP for consideration, which are set out as tracked changes to the current UC Policy. This tracked changed document is attached as Appendix 1.

The proposed use of the Standards Committee to determine appeals by complainants, at section 5 of Appendix 1, would require a change to the Council's Constitution. These proposed changes were also considered by the IWG and are set out at Appendix 2. This change to the Constitution must be made in order to bring into effect the proposed changes to the UC Policy

On 1 February 2022, CPP considered the work of the IWG as set out at Appendices 1 and 2 to this report, and recommended that the proposed changes to the UC Policy and the Constitution be recommended to Cabinet.

2 Options Considered

Other options for the content of the UC Policy are not considered or proposed as this would undermine the work of the IWG.

Cabinet can resolve not to make any recommendations to Full Council following its review of the proposed changes to the UC Policy and Constitution set out at Appendices 1 and 2 respectively.

The Monitoring Officer attended the two meetings of the IWG and was satisfied the changes proposed are legally sound and within the Council's powers.

The most substantial proposed change to the current UC Policy is to make the Standards Committee responsible for determining appeals from complainants. This is not a process the Monitoring Officer is aware of being followed at any other authority; on a cross-sectional sample of other Councils' policies there was a wide range of different processes, mostly involving officers and often including Members as consultees. There is however no bar to the Standards Committees' terms of reference being extended to cover this function, and Cabinet is invited to consider the reasons why they consider this change is necessary.

Whilst it will incur additional resource to facilitate the hearing of appeals by Standards Committee, Cabinet Members may consider this resource proportionate in view of the limited use of the UC Policy (intended to be a matter of last resort) and that the potential significant interference with complainants' rights to contact their Councillors and the Council warrants involvement of Members at the appeal stage of the process.

3 Policy Implications

This report recommends changes to a Council Policy, and therefore Full Council will ultimately have to approve any recommended changes, along with changes to the Council's Constitution.

The Council's Equality Policy would apply to the consideration of any complainant under the Unreasonable and Persistent Complainers Policy.

4 Financial Implications

The proposed changes will require an additional resource requirement in terms of use of a venue for Standards Committee hearing any appeals from complainants and also officer time supporting those appeals, including preparing the reports and associated papers for the appeals and attendance at the appeals.

With regards to the regularity the UC Policy is used and the overall programme of Council Body meetings, this resource will be relatively minimal.

5 Personnel Implications

To the extent set out at section 4 above.

6 Environmental Considerations

None

7 Statutory Considerations

It is not a statutory requirement to have a UC Policy. The discretion on the content of any such policy is therefore wide.

8 Equality Impact Assessment (EIA)

Pre screening report attached

9 Risk Management Implications

Having a policy in place which is applied to complainants falling under the definition of the policy will form part of any relevant responses to the Local Government and Social Care Ombudsman, where complaints are progressed to them.

10 Declarations of Interest / Dispensations Granted

None

11 Background Papers

Guidance on managing unreasonable complainant behaviour from the Local Government & Social Care Ombudsman at <https://www.lgo.org.uk/information-centre/reports/guidance-notes/guidance-on-managing-unreasonable-complainant-behaviour>

Pre-Screening Equality Impact Assessment

Borough Council of
King's Lynn & West Norfolk



Name of policy/service/function	Unreasonable Complainants Policy
Is this a new or existing policy/service/function?	New Existing (delete as appropriate)
Brief summary/description of the main aims of the policy/service/function being screened. Please state if this policy/service is rigidly constrained by statutory obligations	In a minority of cases, complainants may behave unacceptably, or be unreasonably persistent in the pursuance of their complaints or in the manner in which they engage with and towards the Council (officers and Members). This can impede investigation of their complaint (or complaints by others) and can have significant resource issues. The Unreasonable Complainants Policy is designed to be a proportionate approach when responding to unreasonable complainant behaviour and balancing resource needs in other areas of the Council. This policy is not rigidly constrained by statutory obligations

Question	Answer				
<p>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
	Age			X	
	Disability	X	X		
	Gender			X	
	Gender Re-assignment			X	
	Marriage/civil partnership			X	
	Pregnancy & maternity			X	
	Race			X	
	Religion or belief			X	
	Sexual orientation			X	
Other (eg low income)			X		

Question	Answer	Comments
<p>2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?</p>	<p>Yes/ No</p>	
<p>3. Could this policy/service be perceived as impacting on communities differently?</p>	<p>Yes/ No</p>	
<p>4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?</p>	<p>Yes/ No</p>	
<p>5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions?</p> <p>If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section</p>	<p>Yes /No</p>	<p>Actions:</p> <p>Negative: Complainants with disabilities (physical health and mental health) may face challenges attending Standards Committee appeals, however these ought to be captured and assessed under the Council's current Equality Policy. <u>No actions therefore necessary.</u></p> <p>Positive: In certain cases, a complainant's cognitive abilities can be a factor that explains behaviour which may be deemed to fall under this Policy. Implementing an appeals process in which a complainant may be represented, put their own case forward and the involvement of the Independent Person could be seen to increase fairness towards those whose behaviour is attributable to a disability. <u>No actions necessary.</u></p> <hr/> <p>Actions agreed by EWG member:</p> <p>.....</p>
<p>If 'yes' to questions 2 - 4 a full impact assessment will be required unless comments are provided to explain why this is not felt necessary:</p> <p>Decision agreed by EWG member:</p>		
<p>Assessment completed by:</p> <p>Name</p>		
<p>Job title</p>		
<p>Date</p>	<p>69</p>	



BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK

POLICY ON MANAGING UNREASONABLE COMPLAINANT BEHAVIOUR

UNREASONABLE COMPLAINANTS POLICY

This policy sets out our approach to the exceptional circumstances when complainants pursue a particular complaint in a way that is unreasonable. We aim to deal fairly, honestly, consistently and appropriately with all complaints, but we retain the right to restrict or change access to our services where we consider a complainant's actions to be unreasonable. Our aim in doing this is to ensure that other complainants and our staff do not suffer any disadvantage from complainants who act in an unreasonable manner.

This policy will not affect anyone's rights under the Data Protection Act 2018, Human Rights Act 1998 or the Freedom of Information Act 2000 or their rights in respect of other complaints they wish to make.

DEFINITION OF UNREASONABLE BEHAVIOUR

People may act out of character when under stress and we do not view behaviour as unreasonable because a complainant is forceful or determined. However, the actions of complainants who are angry, demanding or persistent may result in unreasonable demands on workloads and unacceptable behaviour towards staff. Such actions have been grouped under three headings:

1. Unreasonable Persistence

Examples include:

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from the authority's staff.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of the complaints procedure despite having been provided with information about the procedure's scope. Insisting on the complaint being dealt with in a way,

which is incompatible with the adopted complaints procedure or with good practice.

- Making what appears to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced. Changing the basis of the complaint as the investigation proceeds and/or denying statements, he or she made at an earlier stage.
- Introducing trivial or irrelevant new information, which the complainant expects to be taken into account, and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is investigated or has been completed. For example, excessive telephoning or sending emails to council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Submitting repeat complaints, after the complaints process has been completed, essentially about the same issue, with additions/variations, which the complainant insists make these 'new' complaints, which should be put through the full complaints procedure.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision. Continually contacting members and officers of the council following a decision. The council will consider any **new** evidence presented in respect of the complaint up to two years following the resolution of the complaint. This is in line with the council's retention strategy for corporate complaints, taking account our responsibilities under the General Data Protection Regulations (GDPR).
- Combinations of some or all of these.

This policy does not preclude complainants submitting complaints on matters unrelated to the complaint which has resulted in them being placed on the unreasonable complainants register. Any further complaints will be dealt with on their merits.

When we find a complainant to be unreasonably persistent, we will tell them why and ask them to change their behaviour. If the behaviour continues, we will take action to restrict the complainant's contact with the Council. Any such restrictions

will be proportionate after consideration by the appropriate Assistant Director in consultation with an Executive Director. The most likely outcome would be:-

- a) requesting contact in a particular form (e.g. by letter only)
- b) requiring contact to take place with a named member of staff and by prior appointment only
- c) restricting telephone calls to specific days and times; and /or
- d) Requesting the complainant enter into an agreement about their contact.
- e) where a) to d) fail to stem unreasonable behaviour, to advise the complainant that all further correspondence and complaints on or closely related to the same subject will be read and filed without acknowledgement and no further response will be sent by officers of the Council, unless the complaint contained new evidence/information.

The reason for the restriction will be recorded and the Assistant Director in consultation with the Executive Director will state how long any restriction will apply for before it is reconsidered.

Restrictions on contact will be automatically reviewed every six months, to determine whether the restrictions imposed are still necessary and should remain, as it specifically relates to the original complaint. This review will be carried out by an Assistant Director and an Executive Director.

The complainant will be notified of the decision to place them on the register by letter. They will also be notified of the result of the 6-monthly review, unless there are good reasons not to do so.

2. Aggressive or Abusive Behaviour

The Council recognises that customers who feel dissatisfied with the service they have received may feel angry about their treatment. However, the Council has a duty of care towards the safety and welfare of its staff.

Examples of unreasonable behaviour include any action or series of actions, which are perceived by the staff member to be abusive or threatening whether they are delivered verbally, in writing or via social media in the form of Cyber Abuse, if the council is made aware of it. This includes not only behaviour directed at them, but also their families or associates. If a staff member feels threatened by a complainant, they should report their fears and the reason for them, to their line manager. The line manager will record the details and as part of the action arising from his/her, investigation will consider-

- Writing to the perpetrator requiring no repetition of the behaviour and, if necessary, setting conditions and restrictions for further contact with staff.
- Whether to report the matter to the Police or take other legal action

If dealing with such behaviour in a telephone conversation, the staff member should tell the complainant that they would terminate the call if the behaviour continues. If, despite this warning the behaviour continues, the contact should be terminated and a note placed on the case file recording the circumstances of the termination. Staff will respond to repeated calls in the same way.

Repeated calls may be deemed harassment, which, after consultation with the Executive Director, may be reported to the Police.

2.1 Cyber Abuse

Councillors and staff (individual or groups) may become targets of cyber abuse, which may include threats both direct and indirect, harassment, defamation, impersonation, insults or prejudice based abuse e.g. homophobic, sexist, racist or other forms of discrimination. Channels include email, mobile phones, website, chatrooms and social networking sites such as Facebook and Twitter. These actions can intrude into a victim's private life.

Any such incident will be investigated and appropriate action taken from writing to the perpetrator requesting they cease and delete all offending material to reporting the matter to the Police.

3. Unreasonable Demands

Complainants may make unreasonable demands through the amount of information they seek, the nature and scale of service they expect or the number of approaches they make. What amounts to unreasonable demands will depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the complainant.

Examples might include demanding responses within an unreasonable timescale, insisting on speaking to or seeing a particular member of staff, continual phone calls or letters.

We consider these demands to be unreasonable if they start to disproportionately impact on the work of staff, such as taking up an excessive amount of staff time to the disadvantage of other customers or services. Actions falling within this category will be dealt with as set out in "Unreasonable Persistence" above.

4. Implementation of the Policy

In cases where this becomes necessary, we will write to the complainant saying why we believe their behaviour is unreasonable, what action we are taking and the duration thereof.

We will also tell them how to challenge the decision if they disagree with it, to whom such an appeal should be addressed and the time frame for submission of this request.

This policy will only be used as a last resort and after all other reasonable measures have been taken to resolve complaints following the appropriate procedure. Judgement and discretion will be applied to ensure that contacts from the complainant about matters other than the complaint are not ignored and that as a result there is a failure to respond to a request for service or other information.

New complaints from customers who have been regarded as unreasonably persistent complainants will be treated on their merits.

Withdrawal of any action taken under this policy must be undertaken following consultation between an Assistant Director and an Executive Director.

5. Appeals Procedure

A complainant can appeal a decision to invoke this policy against them by submitting their request in writing to the Chief Executive within 28 days of the "Decision".

The "Decision" for the purposes of this section includes:

- a) A decision to impose restrictions under this policy
- b) The decision on any review of the imposition of restrictions under this policy

There shall be only one opportunity to appeal each separate Decision.

Additionally, an appeal may also be requested under this section where relevant new evidence is submitted by the complainant which specifically relates to the original complaint.

The appeal shall be determined by the Council's Standards Committee, which will include an Independent Person appointed by the Council. The complainant will have the right to attend and bring a representative if they choose.

Upon an appeal request being accepted, the complainant will be sent a copy of the appeal hearing procedure which will set out the date by which their representations must be submitted and the date of the hearing.

The decision of the Standards Committee will be final, however the complainant will still have the right the right to complain to the Local Government and Social Care Ombudsman about the way their appeal was handled and/or to seek a judicial review of the final decision.

6. Unreasonably Persistent Complainants and links to other policies

The council's policy on Unreasonably Persistent Complainants aligns with other council policies, which include but is not limited to, Equality Policy, Health, Safety and General Welfare, Harassment Policy, Codes of Conduct for staff and Councillors and Freedom of Information and General Data Protection Requirements.

7. Confidentiality

All complainants have the right for their information to be kept confidential. The appropriate Executive Director and the Monitoring Officer only will retain records of complainants who are registered as unreasonably persistent. Information of who is on the register will be released to officers/members only if it is necessary for the reasons of health and safety or for them to perform their functions properly and to discharge their duty.

8. The Policy

This policy will be reviewed annually by the Corporate Performance Panel.

E - Standards Committee

Composition

- E.1 The Standards Committee shall consist of seven members and up to three co-opted non-voting Town/Parish representatives and one Independent Person.
- E.2 For the making of general arrangements for its operation and for dealing with its functions which have a general application, the whole Committee shall be convened; but it may choose not to involve all of its members in conducting hearings affecting particular individuals.
- E.3 For the holding of any such hearings, the Committee shall be advised by the Monitoring Officer, or her nominee, and a Panel formed to conduct a hearing shall be authorised to perform all the functions of the Committee in relation to that hearing.
- E.4 In designating the members to form Panels, the Committee shall be advised by the Monitoring Officer, or their nominee, and shall have regard to political proportionality, to any involvement which would appear to call a member's impartiality into question, and to the knowledge and experience of members in relation to the subject of the hearing.

Terms of Reference

- E.5 Hearings will be conducted according to procedural rules adopted by the Council.
- E.6 Subject to complying with any relevant legal requirements, the Committee shall apply such codes, procedures and consultative processes as the Council shall determine.
- E.7 The Committee shall provide advice, codes, procedures, consultative processes or legal requirements as are required to keep the ethical health of the Authority under review.
- E.8 The Committee shall have authorisation to grant dispensations.

Functions Referred to the Committee

The Board shall have the following functions.

- E.9 The promotion and maintenance of high standards of conduct by Councillors and co-opted members.
- E.10 Monitor the implementation and operation of the Council's codes of conduct for Councillors and Officers.
- E.11 Determine breaches of codes of conduct which have been referred to it and to impose sanctions.
- E.12 Determine appeals under section 5 of the Council's Policy on Managing Unreasonable Complainant Behaviour
- E.13 Consider reports from the Monitoring Officer and.
- E.14 To determine applications for dispensations

REPORT TO CABINET

Open		Would any decisions proposed :			
Any especially affected Wards	Discretionary /	Be entirely within Cabinet's powers to decide		YES	
		Need to be recommendations to Council		NO	
		Is it a Key Decision		NO	
Lead Member: P Kunes E-mail: <i>cllr.paul.kunes@west-norfolk.gov.uk</i>		Other Cabinet Members consulted: B Long			
Lead Officer: S Winter E-mail: <i>sam.winter@west-norfolk.gov.uk</i>		Other Members consulted:			
Lead Officer: S Winter E-mail: <i>sam.winter@west-norfolk.gov.uk</i>		Other Officers consulted: M Chisholm, S Ashworth, L Gore, A Baker			
Financial Implications YES	Policy/ Personnel Implications YES	Statutory Implications /NO	Equal Impact Assessment NO	Risk Management Implications NO	Environmental Considerations NO

Date of meeting: 15 March 2022

BIODIVERSITY TASK GROUP

Summary

Cabinet is invited to set up a Biodiversity task group as agreed at the Council meeting on 10 September 2020

Recommendation

That a Task Group made up of 5 Members 3 Con, 1 Ind and 1 Lab, chaired by a Cabinet member be set up to give consideration to the issues identified in the notice of motion.

Reason for Decision

To respond to the Notice of Motion.

1 Background

Council at its meeting on 10 September 2020 agreed the following Notice of Motion. The report addresses the setting up of the Task Group.

Council was invited to consider the following Notice of Motion (3/20), proposed by Councillor S Squire and seconded by Councillor Long:

This council acknowledges that climate change is not the only challenge facing our natural environment. Therefore, this council agrees to ask Cabinet to set up a Cabinet task group, chaired by an appropriate portfolio holder, to work with our partners including Norfolk County Council and the Norfolk Biodiversity Partnership. Any recommendations on issues such as habitat protection and creation, the creation of a pollinator action plan and wildflower verges where possible, should be brought to Cabinet via the Environment & Community Panel before consideration at Council.

In debating the Motion Councillor Rust proposed an amendment that the task group should be proportional. This was seconded by Councillor Howman. On receiving

confirmation that the Task Group would be proportional Councillor Rust withdrew the amendment. Council voted on the Motion which was agreed.

RESOLVED: That the vote the Motion be approved.

2 Options Considered

Cabinet is invited to comply with the resolution from Council on 10 September 2020.

3 Policy Implications

Setting up the Task Group is in line with the Council's decision.

4 Financial Implications

There is a cost of approximately £35,000 for the work to prepare the plan. It has been confirmed that there are sufficient salary savings available in the current financial year that can cover this. Once agreed, further budget would need to be set aside to take forward the recommendations from the Plan.

5 Personnel Implications

There will be staffing implications as far as supporting the Group and any work arising from it and the reporting into other bodies.

6 Environmental Considerations

The Task Group is being set up to look at Environmental issues, but there are no environmental issues associated with this specific report.

7 Statutory Considerations

8 Equality Impact Assessment (EIA)

(Pre screening report template attached)

9 Risk Management Implications

The report complies with the council decision.

10 Declarations of Interest / Dispensations Granted

None

11 Background Papers

Council minutes 10 September 2020

Pre-Screening Equality Impact Assessment

Borough Council of
King's Lynn & West Norfolk



Name of policy/service/function	Setting up a task group				
Is this a new or existing policy/service/function?	Existing				
<p>Brief summary/description of the main aims of the policy/service/function being screened.</p> <p>Please state if this policy/service is rigidly constrained by statutory obligations</p>	Setting up a task group in accordance with Council decision 10.9.20				
Question	Answer				
<p>1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic, for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service?</p> <p>Please tick the relevant box for each group.</p> <p>NB. Equality neutral means no negative impact on any group.</p>		Positive	Negative	Neutral	Unsure
	Age			x	
	Disability			x	
	Gender			x	
	Gender Re-assignment			x	
	Marriage/civil partnership			x	
	Pregnancy & maternity			x	
	Race			x	
	Religion or belief			x	
	Sexual orientation			x	
	Other (eg low income)				

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