

LICENSING COMMITTEE AGENDA

Wednesday, 10 February 2021 at 12.00 noon

In accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held via Zoom and by the Council's YouTube channel – Braintree District Council Committees.

Members of the public will be able to view and listen to this meeting via YouTube.
To access the meeting please use the link below:

<http://www.braintree.gov.uk/youtube>

Members of the Licensing Committee are requested to attend this meeting to transact the business set out in the Agenda.

Membership:-

Councillor J Baugh (Chairman)	Councillor S Rehman
Councillor Mrs J Beavis	Councillor B Rose (Vice Chairman)
Councillor P Euesden	Councillor P Schwier
Councillor A Hensman	Councillor R van Dulken
Councillor S Hicks	Councillor Mrs L Walters
Councillor H Johnson	Councillor Mrs S Wilson
Councillor Mrs J Pell	Councillor B Wright

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Chief Executive

INFORMATION FOR MEMBERS – DECLARATIONS OF MEMBERS' INTERESTS

Declaration of Disclosable Pecuniary Interests (DPI), Other Pecuniary Interests (OPI) or Non-Pecuniary Interests (NPI).

Any Member with a DPI, OPI or NPI must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a DPI or OPI or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the Chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Public Question Time – Registration and Speaking:

In response to the Coronavirus the Council has implemented procedures for Public Question Time for its virtual meetings which are hosted via Zoom.

The Agenda allows for a period of up to 30 minutes for Public Question Time.

Participation will be via the submission of a written question or statement which will be read out by an Officer or the Registered Speaker during the meeting. All written questions or statements should be concise and should be able to be read **within 3 minutes** allotted for each question/statement.

Members of the public wishing to participate are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by midday on the working day before the day of the Committee meeting. For example, if the Committee meeting is due to be held on a Tuesday, the registration deadline is midday on Monday, (where there is a bank holiday Monday you will need to register by midday on the previous Friday).

The Council reserves the right to decline any requests to register for Public Question Time if they are received after the registration deadline.

Upon registration members of the public may indicate whether they wish to read their question/statement or to request an Officer to read their question/statement on their behalf during the virtual meeting. Members of the public who wish to read their question/statement will be provided with a link to attend the meeting to participate at the appropriate part of the Agenda.

All registered speakers are required to submit their written questions/statements to the Council by no later than 9am on the day of the meeting by emailing them to governance@braintree.gov.uk. In the event that a registered speaker is unable to connect to the virtual meeting their question/statement will be read by an Officer.

Questions/statements received by the Council will be published on the Council's website. The Council reserves the right to remove any defamatory comment in the submitted questions/statements.

The Chairman of the Committee has discretion to extend the time allocated for public question time and to amend the order in which questions/statements are presented to the Committee.

Documents: Agendas, Reports, Minutes and Public Question Time questions and statements can be accessed via www.braintree.gov.uk

Data Processing: During the meeting the Council will be collecting performance data of participants' connectivity to the meeting. This will be used for reviewing the functionality of Ms Teams/Zoom and YouTube as the Council's platform for virtual meetings and for monitoring compliance with the legal framework for Council meetings. Anonymised performance data may be shared with third parties.

For further information on how the Council processes data, please see the Council's Privacy Policy. https://www.braintree.gov.uk/info/200136/access_to_information/376/privacy_policy

We welcome comments to make our services as efficient and effective as possible. If you have any suggestions regarding the meeting you have attended, you can send these to governance@braintree.gov.uk

PUBLIC SESSION

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- 1 Apologies for Absence**
- 2 Declarations of Interest**
To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest, or Non-Pecuniary Interest relating to Items on the Agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.
- 3 Minutes of the Previous Meeting**
To approve as a correct record the Minutes of the meeting of the Licensing Committee held on 9th September 2020 (copy previously circulated).
- 4 Public Question Time**
(See paragraph above)
- 5 Statutory Taxi and Private Hire Vehicle Standards - Statutory Guidance** **5 - 28**
- 6 Licensing Committee Update** **29 - 32**
- 7 Urgent Business - Public Session**
To consider any matter which, in the opinion of the Chairman, should be considered in public by reason of special circumstances (to be specified) as a matter of urgency.

Exclusion of the Public and Press
To agree the exclusion of the public and press for the consideration of any Items for the reasons set out in Part 1 of Schedule 12(A) of the Local Government Act 1972.

PRIVATE SESSION

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- 8 Urgent Business - Private Session**
To consider any matter which, in the opinion of the Chairman, should be considered in private by reason of special circumstances (to be specified) as a matter of urgency.

STATUTORY TAXI & PRIVATE HIRE VEHICLE STANDARDS		Agenda No: 5
Portfolio	Environment and Place	
Corporate Outcome:	<p>A sustainable environment and a great place to live, work and play A well connected and growing district with high quality homes and infrastructure A prosperous district that attracts business growth and provides high quality employment opportunities Delivering better outcomes for residents and businesses and reducing costs to taxpayers</p>	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	John Meddings, Principal Licensing Officer	
Background Papers:		Public Report: Yes
<ol style="list-style-type: none"> 1. Statutory Taxi & Private Hire Vehicle Standards, DfT 2. LGA's Councillor's Handbook 3. Comparisons table (Appendix 1) 4. Proposed consultation document (Appendix 2) 		Key Decision: No
Executive Summary:		
<p>The Council is responsible for licensing hackney carriage and private hire drivers, vehicles and private hire operators. In undertaking those responsibilities, the Council has regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures.</p> <p>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. On 21 July 2020 the Department for Transport (DfT) published Statutory Guidance "Statutory Taxi and Private Hire Vehicle Standards".</p> <p>The Council as the Licensing Authority are required to have regard to the Statutory Guidance and the Licensing Committee are requested to consider the recommendations set out in the Statutory Guidance reflecting upon the Council's current arrangements including licensing conditions and Policies.</p> <p>The Department for Transport (DfT) advises that there is consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector, and the recommendations contained in the Guidance are the result of detailed discussion with the trade, regulators and safety campaign groups.</p>		

The DfT expects the recommendations contained within the Guidance to be implemented by Licensing Authorities unless there is a compelling local reason not to do so.

Officers have reviewed the Statutory Guidance to assess the Council's position and developed a work programme to achieve compliance with the Statutory Guidance

Recommended Decision:

- (1) To approve a proposed work plan regarding achieving compliance with the requirements of the Statutory Guidance "Statutory Taxi & Private Hire Vehicle Standards".
- (2) To approve for consultation to seek the views of the trade, members of the public, as well as a wide range of partner agencies and stakeholders, on the adoption of the new standards.

Purpose of Decision:

To inform the Committee of the Department for Transport (DfT) published "Statutory Taxi and Private Hire Vehicle Standards", and Officers' proposals regarding working towards compliance with those standards.

Any Corporate implications in relation to the following should be explained in detail.	
Financial:	None arising out of this report.
Legal:	<p>The Statutory Guidance is issued under the Police and Crime Act 2017 and the Council must have regard to it. This Statutory Guidance replaces, in part, the DfT Best Practice Guidance.</p> <p>It is important to note that there is an expectation from the DfT that the recommendations set out in the Statutory Guidance are implemented by the Licensing Authority unless there is a compelling local reason not to.</p> <p>The Council as the Licensing Authority must be able to demonstrate the local reason to depart from the Guidance recommendations.</p>
Safeguarding:	<p>None arising of this report.</p> <p>The Statutory Guidance has been introduced by the DfT to protect children and vulnerable adults who are over the age of 18 years from harm when using taxi services.</p> <p>The recommendations set out in the Statutory Guidance seek to strengthen the role the Council, as the Licensing Authority, plays in this regard.</p>
Equalities/Diversity:	<p>Once the consultation has been completed an Equalities Impact Assessment will be completed.</p> <p>The primary aim of the Local Authority in licensing the taxi and private hire trades is to protect the public. Members of the general public should have reasonable access to taxi and private hire vehicle services because of the part they play in the transport provision for the local community.</p>
Customer Impact:	No matters arising from this report
Environment and Climate Change:	No matters arising from this report
Consultation/Community Engagement:	Should Members agree to the recommendation within this report, the intention will be to publish the draft revised policy document on Braintree District Council's website and notify drivers, vehicle owners, Private Hire Operators and other groups or organisation with an interest in the consultation when it goes live.
Risks:	That the Council's decision in relation to Hackney Carriage/Private Hire Drivers and Private Hire Vehicle Operators Licences or Applicants are challenged and costs awarded against the Council.
Officer Contact:	
	John Meddings
Designation:	
	Principal Licensing Officer
Ext. No:	
	2213
E-mail:	
	john.meddings@braintree.gov.uk

1. Introduction

- 1.1 The Council is responsible for licensing hackney carriage and private hire drivers, vehicles and private hire operators. In undertaking those responsibilities, the Council has regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures.
- 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.
- 1.3 On 21 July 2020 the Department for Transport (DfT) published Statutory Guidance "[Statutory Taxi and Private Hire Vehicle Standards](#)".
- 1.4 Whilst the focus of the Guidance is on the protection of children and adults at risk from harm, all passengers will benefit from the recommendations contained within it. The DfT advise that there is consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector, and the recommendations contained in the Guidance are the result of detailed discussion with the trade, regulators and safety campaign groups.
- 1.5 The DfT expects the recommendations contained within the Guidance to be implemented by Licensing Authorities unless there is a compelling local reason not to do so. This enables the Council to determine what is appropriate for the District as the Licensing Authority, however, the Council would have to demonstrate why it has departed from the Guidance recommendations.
- 1.6 As a consequence of this Statutory Guidance the Council will need to review its existing Taxi Licensing Policies and Standards so that as a minimum they meet the standards outlined in the DfT document, but any standards adopted must be appropriate for Braintree District Council's local needs, and the Council will need to be transparent in explaining the reasons for the standards it adopts.

2. Report

- 2.1 The report does not provide a detailed resume of the DfT document. The intention of this report is to introduce the document to the Committee and agree the next steps regarding its consideration. The following paragraphs within section 2 provide a general overview of the sections that require addressing to conform to the published standards.
- 2.2 Although the Council has yet to decide on the implementation of any changes, the Guidance has already been published and the Authority must have regard to it.

- 2.3 The Council must have regard to the statutory standards and provide clear reasons if it chooses to depart from them.
- 2.4 The standards within the guidance are minimum standards and it is up to each Authority to raise their standards to protect the local community through policy work and training.

3. Policy

- 3.1 The Guidance recommends that Local Authorities provide a “taxi licensing policy” a single point of reference which includes all information relevant to private hire and taxi licensing. Whilst Braintree District Council has several taxi licensing policies and procedures these are not contained in a single document.
- 3.2 The differences between the Guidance recommendations and the Council’s current policies and procedures have been detailed in the comparison chart (Appendix 1).
- 3.3 It is the intention to work towards a single Taxi Licensing Policy in the near future and it is also advocated that the Council’s Taxi Licensing Policy should be reviewed every 5 years or sooner if appropriate. This change falls in line with more modern licensing legislation that stipulates review periods in legislation such as the Licensing Act 2003 and the Gambling Act 2005.
- 3.4 The Guidance states that 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.
- 3.5 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.
- 3.6 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. Drivers

- 4.1 The Guidance states that licence holders 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 hold a licence issued by the Authority. This must not however be seen as a direction that a licence should be revoked; 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.

- 4.2 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.
- 4.3 Currently, licence holders are required to notify the Council within 7 days and includes less trigger scenarios than detailed in the proposed change.
- 4.4 The Local Government Association (LGA) commissioned the National Anti-Fraud Network (NAFN) to develop a National Register of Taxi and Private Hire Vehicle Driver Licence refusals and revocations (the register is known as 'NR3').
- 4.5 The Guidance states that 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.
- 4.6 If notification 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.
- 4.7 The Council is a registered member of the National Anti-Fraud Network (NAFN) and the registration process to access the NR3 database is in progress. It will also be necessary to ensure our own data protection arrangements are agreed before any data sharing agreements can be put in place.
- 4.8 The Guidance states that passengers need to 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 a complaint to the Authority should be displayed in all licensed vehicles.

- 4.9 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.
- 4.10 Work will begin on how best to display information on how to complain when issues arise for passengers. The diverse nature of our fleet of licensed vehicles makes this a challenge as it would be a simple task to add the information to purpose built vehicles.
- 4.11 The Guidance states that 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?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

- 4.12 Licensing Authorities have to make difficult decisions, however 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 (Officer with delegated authority) 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.
- 4.13 Drivers' Panel reports currently assist Members in their decision making referencing to appropriate case law on the interpretation of 'fit and proper'. It will be a simple process to add this additional guidance to reports to further aid Members in their decision making.
- 4.14 The Guidance states that all licensed drivers should also be required to evidence continuous registration with the Disclosure and Baring Service (DBS) update service to enable the Licensing Authority to routinely check for new information every six months.
- 4.15 Currently, it is a condition of a licence to be subscribed to the DBS update service and provide evidence of registration. However, this check is only conducted at first application and then every 3 years. Checking a licence holder's DBS record every 6 months will allow the Council to check the subscription to the update service is active and give an early warning of any non-disclosed convictions.

- 4.16 The Guidance states that 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.
- 4.17 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.
- 4.18 Safeguarding does currently form part of the knowledge test but it is acknowledged that more formal mandatory training is required. A series of voluntary safeguarding trainings days have taken place for some existing licence holders. A jointly hosted safeguarding seminar with Chelmsford City Council has also taken place which had an open invitation to all licence holders in both areas.
- 4.19 This will be addressed in a wider review of the training required for applicants and existing licence holders. It is proposed that as a minimum this will include child sexual abuse and exploitation (CSAE) and county lines drug training.
- 4.20 The Guidance states that Licensing Authorities test a driver's proficiency for both oral and written English language skills.
- 4.21 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.
- 4.22 The ability of a driver's proficiency in oral English language skills is assessed during the application and knowledge test stages through engagement with officers. There is currently no formal test of a driver's oral and written English language skills, but this will form part of the wider review of driver training.

5. Vehicles

- 5.1 The Guidance states that Licensing Authorities should require vehicle proprietors to produce a basic disclosure from the DBS and that a check is undertaken annually.
- 5.2 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.

- 5.3 Enhanced DBS and barred list checks are not available for vehicle licensing. Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC).
- 5.4 However, it is important that it is acknowledged that in many cases individuals that license a vehicle are in the majority of cases also licensed as a driver. If the Council undertakes biannual DBS checks recommended for drivers we would 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 Council will 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.
- 5.5 The Guidance states that 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.
- 5.6 The 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.
- 5.7 The DfT's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does occur. 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.
- 5.8 The consultation on CCTV is not an indication that the Council proposes to mandate CCTV in licensed vehicles and there would need to be further consideration of the Council's potential obligations under Data Protection Legislation and Guidance from the Office of the Information Commissioner

6. Operators

- 6.1 The Guidance states that Licensing Authorities should request a basic disclosure from the DBS for Private Hire Operators and that the check is undertaken annually.
- 6.2 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 Licence 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.
- 6.3 A Private Hire Vehicle Operator Licence may be applied for by a company or partnership and 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.
- 6.4 Basic disclosure from the DBS is currently required at application and renewal. In the majority of cases this is every 5 years.
- 6.5 The Guidance states that 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 that a register of all staff that will take bookings or dispatch vehicles is kept.
- 6.6 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 responsibility for the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 6.7 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.
- 6.8 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 report (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.

- 6.9 The Guidance states that 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 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.
- 6.10 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.
- 6.11 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.
- 6.12 To implement these changes would require conditions attached to Private Hire Operator licences to be amended.
- 6.13 The Guidance states that the use of a driver who holds a public service vehicle (PSV) licence and the use of a 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 person making the booking.
- 6.14 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats are required or to accommodate luggage, the person making the booking should be informed that a PSV is necessary, and that a PSV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

7. Enforcement

- 7.1 The Guidance states that 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.
- 7.2 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.

- 7.3 A number of Authorities in Essex are currently utilising the ability to jointly authorise Officers. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

8. Consultation

- 8.1 The DfT has advised Licensing Authorities to consult on any proposed changes to licensing rules that may have significant impacts on passengers and/or the trade. It is therefore proposed that the Council conducts a consultation to seek the views of the trade, members of the public, as well as a wide range of partner agencies and stakeholders, on the adoption of the new standards.
- 8.2 The proposed consultation document to be used has been produced as Appendix 2 and will include the comparison chart to assist consultees in identifying the relevant sections.
- 8.3 The consultation will also include the previously approved review of the Hackney Carriage and Private Hire Driver Criminal Convictions Policy to include the recommendations detailed in the Institute of Licencing's 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades'.
- 8.4 The Guidance recommends that Licensing Authorities should include not only the taxi and private hire vehicle trades in the consultation 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.
- 8.5 Responses will then be collated and presented to the Licensing Committee for consideration.

National Standards comparison with Braintree District Council's policies and procedures (Appendix 1)

No.	Section*	Licensing Area	Item	Current situation	Proposed change
1	3.5	Policy	Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues or changes that arise.	There is no timeframe for review process.	Policies will be reviewed every five years or earlier. Work will begin on the creation of a single policy document.
2	3.14	Policy	Any changes in licensing requirements should be followed by a review of the licences already issued.	Licences are assessed against new standards at renewal.	A review will take place when changes are introduced.
3	4.12	Drivers	Licence holders 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.	Licence holders are required to notify within 7 days with less trigger scenarios.	To update condition of licences to reflect enhanced criteria.
4	4.20-21	Drivers	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. Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of nondisclosure of relevant information by applicants.	Questions are asked as part of the application but no checks on non-disclosure.	Work has begun on implementing the national register (NR3) which will form part of the application process in the future.
5	4.29-31	Drivers Vehicles Operators	All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Ways to make complaint to the	Comprehensive complaints system. No details of how	Options are being explored on how best to achieve greater customer

National Standards comparison with Braintree District Council's policies and procedures (Appendix 1)

			authority should be displayed in all licensed vehicles.	to complain in licensed vehicles.	awareness (including the use of signage in licensed vehicles).
6	5.12	Drivers	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?	Drivers' Panel reports currently make reference to 'Lord Bingham, Lord Chief Justice' interpretation of 'fit and proper'.	Drivers' Panel reports will now reference the National Standards guidance on 'fit and proper'.
7	6.2	Drivers	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.	Checked every 3 years.	Increase checks to every 6 months.
8	6.6	Drivers	All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training.	Safeguarding is addressed in the knowledge test and through optional training days.	Training for new and existing licence holders is currently being reviewed. Mandatory safeguarding training is likely to form part of any amended training.
9	6.15	Drivers	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.	English language proficiency and numeracy is examined to an extent in the Knowledge Test,	Seek views on requiring applicants to obtain a recognised qualification or pass an approved

National Standards comparison with Braintree District Council's policies and procedures (Appendix 1)

				which all applicants must pass	course in English language proficiency
10	7.2	Vehicles	Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.	Not required	Every 12 months
11	7.9	Vehicles	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.	Licence holders can install their own independent CCTV in vehicles.	As detailed in the standards a consultation will take place to identify local circumstances.
12	8.2	Operators	Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.	Every 5 years	Every 12 months
13	8.8	Operators	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.	Not required	It shall become a condition of the licence that the operator maintains a live register of all booking and dispatch staff, where applicable.
14	8.9	Operators	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.	Not required	It shall become a condition of the licence that the operator must require and declare that all booking and dispatch staff have

National Standards comparison with Braintree District Council's policies and procedures (Appendix 1)

					been subject to a Basic Disclosure, where applicable.
15	8.13	Operators	<p>Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:</p> <ul style="list-style-type: none"> • the name of the passenger; • the time of the request; • the pick-up point; • the destination; • the name of the driver; • the driver's licence number; • the vehicle registration number of the vehicle; • the name of any individual that responded to the booking request; • the name of any individual that dispatched the vehicle. 		
16	8.15	Operators	Registration with the Information Commissioner's Office as a data controller.	Some operators are registered with The Information Commissioner's Office (ICO), but this is not mandated by the Council.	It shall become a condition of the licence that the operator must register with ICO as a data controller, where applicable.
17	8.16	Operators	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.	Not a condition attached to operator licences.	It shall become a condition of the licence that the operator must not use a PCV licensed driver and

National Standards comparison with Braintree District Council’s policies and procedures (Appendix 1)

					PSV to fulfil a booking without the consent of the booker. Where used, the booker must be advised the driver is subject to different checks.
18	9.2	Enforcement	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.	Not currently utilised	A number of Essex authorities have authorised neighbouring authority’s officers. Work is currently being undertaken to look at the possibilities of doing something similar.

*Refers to the relevant section number within the ‘Statutory Taxi & Private Hire Vehicle Standards’ document

‘Statutory Taxi & Private Hire Vehicle Standards’

Consultation Document

The DfT has outlined that there is evidence to support the view that taxis and private hire vehicles are a high-risk environment in terms of risk to passengers; this can be seen in the abuse and exploitation of children and adults at risk from harm facilitated, and, in some cases, perpetrated by the trade. Links between the trade and child sexual exploitation have been established in many areas across the country. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers: data from the areas of Greater Manchester and Merseyside suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported.

The Policing 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 adults at risk from harm when using such services. The ‘Standards’ document sets out a framework of policies that licensing authorities must have regard to when exercising their functions. 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.

Whilst the focus on the standards is on protecting children and adults at risk from harm, all passengers will benefit from the recommendations contained within it. There is consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector, and the recommendations contained in the document are the result of detailed discussion with the trade, regulators and safety campaign groups. Whilst the new ‘Standards’ are guidance and not compulsory, the DfT expects the recommendations laid out to be implemented by licensing authorities unless there is a compelling local reason not to do so.

Consultation The DfT has advised licensing authorities to consult on any proposed changes to licensing rules that may have significant impacts on passengers and/or the trade. Braintree District Council is therefore conducting a consultation to seek the views of the trade, members of the public, as well as a wide range of partner agencies and stakeholders, on the adoption of the new standards.

You can find a full list of the proposed changes we intend to make to our policy documents in the table below.

You can respond to the consultation using the survey document, available on the consultation webpage, which when completed you can send by e-mail or post to us:

- E-mail: licensing@braintree.gov.uk please include the words 'Consultation on Statutory Taxi and Private Hire Vehicle Standards' in the subject field; or
- Post: Commercial & Licensing Team, Braintree District Council, Causeway House, Bocking End CM7 9HB.

In your response you should clearly state your name and any organisation or persons you may be responding on behalf of.

The consultation is open until 31 March 2022.

The results of the consultation exercise will be presented to Members at Licensing Committee to consider the feedback from the trade, members of the public and other stakeholders.

Areas for consideration

Please see the table below for details of the current situation for each item we are consulting on and the corresponding proposed changes as laid out in the 'Standards' document. Please note that the Council already has in place several of the recommendations contained within the 'Standards', therefore this consultation concerns only the proposed changes we intend to make and does not form part of a full review of the 'Hackney Carriage and Private Hire Licensing Policy'.

Timescale for Implementation

Officers intend to recommend to committee that the new standards be adopted in full immediately; however, in some instances there may need to be a lead-in time to implement one or more of the new measures in order to put in place suitable processes to facilitate the changes applied. Following the meeting the policy documents will be updated to reflect the changes agreed by Licensing Committee. The trade will also be advised on the new requirements.

No.	Section*	Licensing Area	Item	Current situation	Proposed change
1	3.5	Policy	Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues.	There is no timeframe for review process.	Policies will be reviewed every five years or earlier.
2	3.14	Policy	Any changes in licensing requirements should be followed by a review of the licences already issued.	Licences are assessed against new standards at renewal.	A review will take when changes are introduced.
3	4.12	Drivers	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.	Licence holders are required to notify within 7 days with less trigger scenarios.	To update condition of licences to reflect enhanced criteria.
4	4.20-21	Drivers	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. Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of nondisclosure of relevant information by applicants.	Questions are asked as part of the application but no checks on non-disclosure.	Work has begun on implementing the national register (NR3) which will form part of the application process in the future.
5	4.29-31	Drivers Vehicles Operators	All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Ways to make complaint to the authority should be displayed in all licensed vehicles.	Comprehensive complaints system. No details of how to complain in licensed vehicles.	Options are being explored on how best to achieve greater customer awareness (including the use of signage in licensed vehicles).

6	5.12	Drivers	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?	Drivers' Panel reports currently make reference to 'Lord Bingham, Lord Chief Justice' interpretation of 'fit and proper'.	Drivers' Panel reports will now reference the National Standards guidance on 'fit and proper'.
7	6.2	Drivers	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.	Checked every 3 years.	Increase checks to every 6 months.
8	6.6	Drivers	All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training.	Safeguarding is addressed in the knowledge test and through optional training days.	Training for new and existing licence holders is currently being reviewed. Mandatory safeguarding training is likely to form part of any amended training.
9	6.15	Drivers	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.	English language proficiency and numeracy is examined to an extent in the Knowledge Test, which all applicants must pass	Seek views on requiring applicants to obtain a recognised qualification or pass an approved course in English language proficiency

10	7.2	Vehicles	Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.	Not required	Every 12 months
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15	8.13	Operators	<p>Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:</p> <ul style="list-style-type: none"> • the name of the passenger; • the time of the request; • the pick-up point; • the destination; • the name of the driver; • the driver's licence number; • the vehicle registration number of the vehicle; • the name of any individual that responded to the booking request; • the name of any individual that dispatched the vehicle. 		
16	8.15	Operators	Registration with the Information Commissioner's Office as a data controller.	Some operators are registered with Information Commissioner's Office (ICO), but this is not mandated by the Council.	It shall become a condition of the licence that the operator must register with ICO as a data controller, where applicable.
17	8.16	Operators	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.	Not a condition attached to operator licences.	It shall become a condition of the licence that the operator must not use a PCV licensed driver and PSV to fulfil a booking without the consent of the

					booker. Where used, the booker must be advised the driver is subject to different checks.
18	9.2	Enforcement	Licensing authorities should, where the need arises, jointly authorises officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area.	Not currently utilised	A number of Essex authorities have authorised neighbouring authority's officers. Work is currently being undertaken to look at the possibilities of doing something similar.

LICENSING COMMITTEE UPDATE		Agenda No: 6
Portfolio	Environment and Place	
Corporate Outcome:	Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	John Meddings, Principal Licensing Officer	
Report prepared by:	John Meddings, Principal Licensing Officer	
Background Papers:	Public Report: Yes	
Review of the Gambling Act 2005 Terms of Reference and Call for Evidence	Key Decision: No	
Executive Summary:		
To update Members on applications determined and relevant new information.		
Recommended Decision:		
To note the information detailed.		
Purpose of Decision:		
To update Members.		
Any Corporate implications in relation to the following should be explained in detail.		
Financial:	None arising from this report	
Legal:	None arising from this report	
Safeguarding:	None arising from this report	
Equalities/Diversity:	None arising from this report	
Customer Impact:	None arising from this report	
Environment and Climate Change:	None arising from this report	
Consultation/Community Engagement:	None arising from this report	
Risks:	None arising from this report	
Officer Contact:	John Meddings	
Designation:	Principal Licensing Officer	
Ext. No:	2213	
E-mail:	john.meddings@braintree.gov.uk	

1. Background

- 1.1 Members have requested regular updates on applications determined by Licensing Sub-Committees and the Drivers' Panel. A summary of all applications determined since the previous Licensing Committee meeting held on 9th September 2020 are highlighted below.
- 1.2 Officers will also endeavour to provide an update to the Committee on matters relevant to the licensing regimes managed by the Council.

2. Hackney Carriage and Private Hire Drivers' and Vehicle Licences

- 2.1 There have been three applications presented to the Drivers' Panel since the previous update.
- 2.2 The first hearing was the result of an undeclared conviction revealed on the enhanced Disclosure and Barring Service Certificate supplied by the applicant.
- 2.3 On 18th September 2020 a meeting of the Drivers' Panel was convened and **GRANTED** the Private Hire driver's licence application.
- 2.4 The second hearing was an application for a Hackney Carriage Vehicle.
- 2.5 On 1st October 2020 a meeting of the Drivers' Panel was convened and **GRANTED** the Hackney Carriage Vehicle licence application.
- 2.6 The third hearing was the result of a number of undeclared convictions revealed on the enhanced Disclosure and Barring Service Certificate supplied by the applicant.
- 2.7 On 16th November 2020 a meeting of the Drivers' Panel was convened and **REFUSED** the Hackney Carriage and Private Hire driver's licence application.

3. Hackney Carriage Proprietors' Licences

- 3.1 The Council is in a position to allocate two Hackney Carriage Proprietors' licences in accordance with the Allocation of Hackney Carriage Proprietors' Licences 2014 policy. The process of registering an interest for the licences is due to close at the end of January 2021 and the Authority expects to issue the licences at an appropriate time afterwards.

4. Licensing Act 2003

- 4.1 There have been no applications since the last update provided that have required determination at a hearing.

The Council have however received the following applications that were granted through officer delegation, due to no representations being received.

4 Grant of a Premises Licence
2 Variations of a Premises Licence
2 Minor Variations of a Premises Licence

5. Gambling Act 2005

5.1 Braintree District Council's Gambling Act 2005 Policy Statement requires review before 19th January 2022. This will require work to begin this year to allow for consultation and the relevant Committee cycles.

5.2 There may be significant changes to the policy as the Government is reviewing the Gambling Act (2005) to ensure the regulatory framework can protect children and vulnerable people, prevent gambling related crime, and keep gambling fair and open in the digital age. Through this review, the Government's objectives are to:

- Examine whether changes are needed to the system of gambling regulation in Great Britain to reflect changes to the gambling landscape since 2005, particularly due to technological advances.
- Ensure there is an appropriate balance between consumer freedoms and choice on the one hand, and prevention of harm to vulnerable groups and wider communities on the other.
- Make sure customers are suitably protected whenever and wherever they are gambling, and that there is an equitable approach to the regulation of the online and the land based industries.

5.3 It is unclear whether this review will be concluded in time for changes to be reflected in the Council's Gambling Act 2005 Policy Statement. The call for evidence only began in December 2020 with no clear timeframe set at this stage. Members will be updated as the review progresses through its various stages.

6. Covid-19

6.1 Compliance

6.1.1 Officers from the Licensing Team have continued to work closely with colleagues from Environmental Health by taking an active role in providing support and advice to licence holders during the Covid-19 pandemic and have helped ensure businesses comply with the relevant restriction requirements in place.

6.1.2 Since the last Committee update of 9th September 2020, Environmental Health have received 736 Covid-19 related enquiries and complaints across all sectors. In response; officers have followed up on each complaint and enquiry within the agreed time frame, undertaken at least 74 reactive visits to businesses including licensed premises, and made a further 540 proactive observations and visits to businesses including licensed premises.

6.1.3 In a small number of cases, where informal action has not resulted in the desired outcome, the Council has served Prohibition Notices on two separate businesses and served Fixed Penalty Notices on two further businesses for remaining open in contravention of legal requirements. In one case where the

Council has served a Fixed Penalty Notice which hasn't been settled, a prosecution is now being considered.

6.1.4 The Council will continue to work closely with partner agencies such as Essex Police to ensure that businesses are complying with the latest set of restrictions. Officers will continue to respond to all relevant complaints, undertake reactive and proactive visits and where necessary take the appropriate action.

6.2 Communications

6.2.1 Environmental Health and Licensing continue to support the Council's effort to communicate with relevant businesses at appropriate times including, but not exclusive to when new restrictions are introduced or guidance released. Communication routes include regular business e-newsletters, emails, and letters. Examples include emails and letters sent to the licensed trade and takeaway food outlets regarding business restrictions and grants, letters sent to the licensed driver and vehicle trades regarding taxi safety and grants and a business e-newsletter to animal welfare licence holders regarding grants.

6.2.2 Two business forums were held on 2nd December 2020 to help businesses, including licensed premises, understand the restrictions placed on business at that time. The Council was pleased that 35 local businesses attended the forums.

6.3 Service Delivery

6.3.1 The Licensing Team remains operational and has adapted service provision to ensure it processes applications and responds to complaints in a timely manner. The office remains open for appointments where absolutely necessary and is able to manage the knowledge test requirements for new driver licence applications. The Licensing Team will continue to encourage applications and requests for service via online or electronic means.