

## Appendix 4: Proposed consultation response

1. *The draft statutory guidance recommends that all those involved in the determination of licensing matters should receive training covering licensing procedures, natural justice, child sexual abuse and exploitation, disability and equality in addition to any other issues deemed locally appropriate (paragraph 2.18). Do you agree with the recommendation?*

Proposed response:

Yes. The Council currently provides annual training for Members of its Licensing and Appeals Committee to assist in its taxi licensing functions, but notes that attendance of such training would be mandatory if required by Statutory Guidance.

2. *The draft statutory guidance recommends a council structure for dealing with licensing matters (paragraphs 2.20-2.24). Do you agree with this proposed structure?*

Proposed response:

The Council notes the DfT recommendation that councils operate with a Regulatory Committee or Board to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from the Regulatory Committee or Board. As a similar approach is adopted under the Licensing Act 2003, the Council is supportive of this proposal, presuming the Council would be able to determine how this proposed model is to be constituted and administered.

3. *The draft statutory guidance recommends that all issued licences should be reviewed following changes in licensing policy (paragraph 2.29). Do you agree with this recommendation?*

Proposed response:

Yes. The Council understands the reasons for this proposal, but notes that the required resources could be considerable.

4. *The draft statutory guidance recommends that all drivers should be subject to an enhanced Disclosure and Barring Service (DBS) with barred lists check for individuals applying for or renewing taxi and PHV driver licences (paragraph 2.32). Do you agree with this recommendation?*

Proposed response:

Yes. The Council currently requires this from new and renewal licence applicants.

5. *The draft statutory guidance recommends that all licence holders should be required to subscribe to the DBS update service (paragraph 2.38). Do you agree with this recommendation?*

Proposed response:

Yes. The Council has consulted on adopting this practice as part of its taxi licensing policy. It is anticipated that this requirement will come into effect before summer 2019.

6. *The draft statutory guidance recommends that appropriate DBS checks are conducted every 6 months (paragraph 2.39). Do you agree with this recommendation?*

Proposed response:

Yes. However, such checks are likely to require additional resource, which would have to be incorporated into the licence fee.

7. *The draft statutory guidance recommends that drivers and operators should be required to notify the issuing authority within 48 hours upon arrest and release, charge or conviction of any motoring offence or any offence involving dishonesty, indecency or violence (paragraph 2.41). Do you agree with this recommendation?*

Proposed response:

The Council currently requires notification of any offence within 7 days. It would therefore support a time limit of 48 hours for more serious offences detailed above, but would suggest that this limit be set for all offences to avoid potential confusion and compliance with this requirement.

8. *The draft statutory guidance recommends that licensing authorities should make referrals to the DBS when it considers that an applicant or licence holder is thought to present a potential risk of harm to the public (paragraph 2.43). Do you agree with this recommendation?*

Proposed response:

Yes. The Council has adopted a safeguarding policy with defined roles for Officers. It would be capable of referring relevant individuals to the DBS.

9. *The draft statutory guidance recommends that a check of overseas criminality information or 'Certificate of Good Character' should be required, when an individual has spent a period of more than 3 continuous months outside the*

*UK when over the age of 18 (paragraph 2.47). Do you agree with this recommendation?*

Proposed response:

The Institute of Licensing recently provided guidance which stated that if an applicant has, from the age of 10 years, spent six continuous months or more living outside of the United Kingdom, they are required to provide evidence to the Authority of a criminal record check from the country/countries covering the relevant period should be required. There is an obvious difference between the two approaches, but whichever model the DfT adopts, the standard of criminal check for anyone living outside of the UK should be similar standard to the DBS Enhanced Disclosure, which is required for all other driver applicants.

*10. The draft statutory guidance recommends that licensing authorities should require applicants / licensees to disclose if they have been licensed elsewhere, or have had an application for a licence refused, or have had a licence revoked or suspended by any other licencing authority (paragraph 2.57). Do you agree with this recommendation?*

Proposed response:

Yes. The Council currently requires this information from all applicants.

*11. The draft statutory guidance recommends that licensing authorities should use tools such as the national register of taxi and PHV driver licence refusals and revocations (NR3) to improve information sharing (paragraph 2.58). Do you agree with this recommendation?*

Proposed response:

Yes. The Council has consulted on adopting this practice as part of its taxi licensing policy. It is anticipated that this requirement will come into effect before summer 2019.

*12. The draft statutory guidance recommends that the authority considering an application for or renewal of a licence should consult and consider other licensing decisions in its assessment, when an applicant / licensee discloses they have had an application refused, or had a licence revoked or suspended elsewhere (paragraph 2.60). Do you agree with this recommendation?*

Proposed response:

Yes. Council Officers would routinely enquire with the relevant authority were such a disclosure has been made.

*13. The draft statutory guidance recommends that multi-agency safeguarding hubs (or similar) should be established by licensing authorities to improve the*

*sharing of relevant information (paragraph 2.64). Do you agree with this recommendation?*

Proposed response:

Yes. In addition to the operation of its safeguarding policy, the Council operates a Multi Agency Licensing Team (MALT) at which safeguarding issues is a standing item.

*14. The draft statutory guidance recommends that licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that must be displayed in licensed vehicles (paragraph 2.66). Do you agree with this recommendation?*

Proposed response:

The Council has a defined complaint procedure within its published taxi policy. However, it does not publish this procedure in licensed vehicles. Presuming the Council would be able to determine the manner in which such a procedure was provided in licensed vehicles, it would support this approach.

*15. The draft statutory guidance recommends that all licensing authorities should, as a condition of licensing, require drivers to undertake safeguarding training (paragraph 2.72). Do you agree with this recommendation?*

Proposed response:

Yes. The Council has consulted on adopting this practice so as to build routine training into the licence grant and renewal process, thereby ensuring drivers received training every three years. It is anticipated that this requirement will come into effect during 2019.

*16. The draft statutory guidance recommends that all licensing authorities should consider whether an applicant for a licence is able to communicate in English orally and in writing with customers (paragraph 2.79). Do you agree with this recommendation?*

Proposed response:

Yes. The knowledge test operated by the Council contains basic literacy tests to determine communication standards. It is also suggested that this be extended to include basic numeracy skills.

*17. The draft statutory guidance recommends 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 (paragraph 2.81). Do you agree with this recommendation?*

Proposed response:

Yes. The Council currently authorises officers from neighbouring authorities, and could extend this to other authorities where needed.

*18. The draft statutory guidance recommends that PHV operators (applicants or licensees) should be subject to a basic DBS check (paragraph 2.91). Do you agree with this recommendation?*

Proposed response:

Yes. The Council requires a basic DBS check as part of the PH operator licence application process.

*19. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles (paragraph 2.97). Do you agree with this recommendation?*

Proposed response:

Yes. The Council requires operators to maintain an up to date list of the names of persons employed or otherwise used by them in the operation of their business, but to also provide this information to the Council. There are defined courses of action should this information not be provided.

*20. The draft statutory guidance recommends that PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the above register (paragraph 2.97). Do you agree with this recommendation?*

Proposed response:

The Council currently requires operators to provide a signed declaration that he/she is satisfied that they have taken the appropriate steps to ensure those persons named on the list are safe and suitable to undertake work for the Operator, taking account of the potential risks to the travelling public. In practice, most Operators have chosen to use the basic DBS as the easiest way to demonstrate this and so the Council would support this recommendation.

*21. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to provide to the licensing authority their policy on employing ex-offenders that will take bookings or dispatch vehicles (2.98). Do you agree with this recommendation?*

Proposed response:

The Council currently does not require this information. It can see no reason why this information could not be required and would support this recommendation.

22. *The draft statutory guidance recommends that, as a condition of the licensing, a PHV operator may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking (paragraph 2.100). Do you agree with this recommendation?*

Proposed response:

The Council's licence conditions do not explicitly prevent this activity. The Council would support this recommendation.

23. *The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to record the information detailed in paragraph 2.101. Do you agree with this recommendation?*

Yes. The Council currently requires this information to be recorded.

24. *The draft statutory guidance recommends that licensing authorities should carefully consider potential public safety benefits and potential privacy issues when considering a policy mandating that taxis and PHVs have CCTV installed (paragraphs 2.104 to 2.109). Do you agree with this recommendation?*

Proposed response:

The Council understands the arguments for and against the use of CCTV in HCs and PHVs. Those authorities that have deployed CCTV in licensed tend to have an evidence base on which to provide the argument that CCTV is necessary (e.g. incidents against drivers). Those authorities who [fortunately] see less incidents, have a lesser evidential argument, but the public safety benefits still remain. The lack of incidents can then be used as a counter argument against the public safety requirement. However, much of the taxi licence process is not based on the level of incidents, but the control the risks to the travelling public. Correctly used CCTV is common place across this Borough and in many forms of public transport. This should be the same for licensed vehicles. To provide a consistent approach to CCTV, it would assist local authorities if the DfT could provide a greater commitment to the use of CCTV, or define the broad terms of operation, which would add weight to a local argument, where incidents may not be perceived as being frequent or serious enough to warrant its use. Nevertheless, the fact that CCTV is likely to remain in the statutory guidance will necessitate that the Council considers the issue carefully and make a decision accordingly.

25. *The draft statutory guidance recommends that licensing authorities should consider licensing vehicles with an Individual Vehicle Approval certificate,*

*even if the passenger capacity is unclear, but under the strict condition that the vehicle will not be used to carry more than 8 passengers (paragraph 2.118). Do you agree with this recommendation?*

Proposed response:

The Council's taxi policy does not explicitly support this recommendation, but does support an open licensing process for PHV so that as many different sizes and types of vehicles can be licensed, so long as these comply with specification requirements.

*26. The draft statutory guidance proposes that the Department for Transport issue guidance on the assessment of previous convictions (paragraph 2.50). Do you agree with this recommendation?*

Proposed response:

Yes. The Council supports this recommendation as a good example of providing national consistency. The Council's current convictions policy is in line with that published in the IoL Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades, but can be amended to reflect the statutory guidance when published.

*27. Annex A of the draft statutory guidance provides a list of offences to aid consistency in the 'fit and proper' assessment for licences. Do you think that the list provides enough detail to do this?*

Proposed response:

The Council welcomes the clarity provided by the DfT that the periods listed should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstances. That said, as each case must be taken on its merits, those applicants who are nearing these limits or are able to argue that theirs was a 'lesser offence' may well be able to provide a substantive case to demonstrate that they are a fit and proper person. This would be particularly true in cases of violence, which can take many forms. Should a common assault be treated the same as grievous bodily harm? If the Council enforced the arbitrary limits without taking account of the facts of the case, this could be substantively challenged on appeal. The Council therefore should grant the licence in such cases. This would not be a truly 'exceptional circumstance', as stated in the draft guidance, but the natural rule of law. The guidance should therefore address this issue to ensure that local authorities are not criticised when they are making decision based on the evidence before them.

*28. Are there any offences that should be added to the list in Annex A of the statutory guidance?*

Proposed response:

Notwithstanding the response to Q27, the proposed list appears to be adequate.

29. If you answered yes, please list the offence(s) and the period you consider appropriate to prevent the granting of a licence under most circumstances.

Proposed response:

Not applicable.

30. *Do you have data relating to alleged offences committed in licensed vehicles either against or by passengers? If you have and are prepared to share this with us please add to your response.*

Proposed response:

None.

31. *If you have any comments or other data that may be relevant to the Impact Assessment please provide this.*

Proposed response:

None.