

22 September 2020 at 5.00 pm

The meeting will be held virtually via Zoom,
and live streamed here:

https://www.youtube.com/channel/UCIT1f_F50fvTzxjZk6Zqn6g

Despatched: 14.09.20



Licensing Committee

Membership:

Chairman, Cllr. Clack; Vice-Chairman, Cllr. Pett
Cllrs. Abraham, Dr. Canet, Carroll, Coleman, Esler, Hunter, Layland, Parkin and Raikes

Agenda

	Pages	Contact
Apologies for Absence		
1. Minutes To agree the Minutes of the meeting of the Committee held on 18 June 2020, and the Licensing Hearings held on 1 July 2020, 30 July 2020, 1 September 2020* and 14 September 2020 (to follow) as a correct record. *(contains exempt information see below)	(Pages 1 - 34)	
2. Declarations of interest Any interests not already registered.		
3. Actions from the previous meeting (if any)		
4. Statutory Guidance issued by The Secretary of State for Transport to Protect Children and Vulnerable Individuals	(Pages 35 - 104)	Sue Lindsey Tel: 01732227491
5. Work plan	(Pages 105 - 106)	

EXEMPT INFORMATION

Recommendation: That, under section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting when considering the part of the Licensing Hearing Minutes of the meeting held on 1 September 2020 (above at agenda item 1), on the grounds that likely disclosure of exempt information is involved as defined by Schedule 12A: paragraph 1 (information relating to any individual); paragraph 2 (information which is likely to reveal the identity of an individual); and, paragraph 7 (information relating to any action taken or to be

taken in connection with the prevention, investigation or prosecution of crime).

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227000 or democratic.services@sevenoaks.gov.uk.

LICENSING COMMITTEE

Minutes of the meeting held on 18 June 2020 commencing at 3.00 pm

Present: Cllr. Clack (Chairman)

Cllr. Pett (Vice Chairman)

Cllrs. Abraham, Dr. Canet, Coleman, Esler, Hunter, Parkin, and Raikes

An apology for absence was received from Cllr. Layland

30. Minutes

Resolved: That the Minutes of the Licensing Committee held on 16 March 2020, be agreed and signed by the Chairman, as a correct record.

31. Declarations of interest

For reasons of transparency Cllr Clack and Cllr Raikes declared that they knew one of the taxi drivers.

32. Actions from the previous meeting

There were none.

33. Hackney Carriage and Private Hire Licensing: Licence Fees from July 2020

Members considered the report which set out the proposed fees for a 2.5% inflation rise of Hackney Carriage and Private Hire Licence Fees and the four responses received from the Trade following the consultation.

In response to questions, Members were advised that some of the increases were only £3 and Maidstone and Tunbridge Wells Borough Councils had both increased their fees earlier in the year. If the Council was able to work at reduced costs this could be mirrored in the fees.

Resolved: That, having taken account of the objections received, as detailed in the table in Appendix A of the report, the proposed fees and charges and associated costs for licences in respect of Hackney Carriage Drivers and vehicles and Private Hire Drivers, vehicles and operators as set out below be adopted with effect from 1 July 2020.

	Existing Fees	New Fees from May 2020
Hackney Carriage Driver Licence		
Computerised Knowledge test	£47	£50 * (Higher than inflationary increase as more time spent on knowledge test bookings)
On initial application	£194 (excluding knowledge test fee) for three years	£199 (excluding knowledge test fee) for three years
Disclosure Barring Service search fee	£40 every three years or £13 per year if they sign up to the DBS online service	£40 every three years or £13 per year if they sign up to the DBS online service
Total (including DBS fee and Knowledge test fee)	£281 for three years	£289 for three years
<i>On renewal</i>	£106 for three years	£109 for three years
Disclosure Barring Service search fee	£40 every three years or £13 per year if they sign up to the DBS online service	£40 every three years or £13 per year if they sign up to the DBS online service
Total (including DBS fee)	£146 for three years	£149 for three years
Dual Driver Licence		
Computerised Knowledge test	£47	£50 * (Higher than inflationary increase as more time spent on knowledge test bookings)
On initial application	£194 (excluding knowledge test fee) for three years	£199 (excluding knowledge test fee) for three years
Disclosure Barring Service search fee	£40 every three years or £13 per year if they sign up to the DBS online service	£40 every three years or £13 per year if they sign up to the DBS online service
Total (including DBS fee and Knowledge test fee)	£281 for three years	£289 for three years
<i>On renewal</i>	£106 for three years	£109 for three years

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	Existing Fees	New Fees from May 2020
Disclosure Barring Service search fee	£40 every three years or £13 per year if they sign up to the DBS online service	£40 every three years or £13 per year if they sign up to the DBS online service
Total (including DBS fee)	£146 for three years	£149 for three years
Hackney Carriage Vehicle Licence	£341 for one year	£350 for one year
Private Hire Operator Licence		
On initial application - 5 year licence	£504 for five years	£517 for five years
<i>On renewal - 5 year licence</i>	£489 for five years	£501 for five years
On initial application - 3 year licence	£346 for three years	£355 for three years
<i>On renewal - 3 year licence</i>	£331 for three years	£339 for three years
On initial application - 1 year licence	£190 for one year	£195 for one year
<i>On renewal - 1 year licence</i>	£178 for one year	£182 for one year
Private Hire Driver Licence		
Computerised knowledge test	£47	£50
On initial application	£158 (excluding knowledge test fee) for three years	£162 (excluding knowledge test fee) for three years
Disclosure Barring Service search fee	£40 every three years or £13 per year if they sign up to the DBS online service	£40 every three years or £13 per year if they sign up to the DBS online service
Total (including DBS fee and Knowledge test fee)	£240 for three years	£252 for three years
<i>On renewal</i>	£106 for three years	£109 for three years

	Existing Fees	New Fees from May 2020
Disclosure Barring Service search fee	£40 every three years or £13 per year if they sign up to the DBS online service	£40 every three years or £13 per year if they sign up to the DBS online service
Total (including DBS fee)	£146 for three years	£149 for three years
Private Hire Vehicle Licence	£341 for one year	£350 for one year
Additional Costs		
Change from Hackney Carriage to Private Hire	£74	£76
Change from Private Hire to Hackney Carriage	£94	£96
Replace vehicle plate	£25	£26
Replace driver badge	£10	£11
Vehicle re-test	£54.85	£56
Vehicle partial re-test	£27.43	£28
Change of ownership of licensed vehicle	£73	£75
Failure to attend in time for the vehicle test (10 minutes prior to the test start time)	£54.85	£56
Failure to attend with correct documentation	£54.85	£56
Copy of existing paper licence	£12	£13
Change of address details for a replacement licence	£12	£13
Change of name for a vehicle or operator licence	£12	£13
Change of name and address for a driver badge	£22	£23

	Existing Fees	New Fees from May 2020
<p>Replacement Vehicles</p> <p>If a licensed vehicle is replaced during the valid licence period then the cost of licensing the replacement vehicle will be £350. However, if the vehicle is replaced within six months of the issue of the licence then the fee will be reduced by £60.</p> <p>If a licensed vehicle is replaced temporarily for up to 2 months because of damage to it then the fee will be £109 to test and licence the replacement vehicle and a further £109 to test and re-licence the original vehicle.</p>		

34. Licensing Partnership Update Report 2020

The Head of the Licensing Partnership presented the annual update on the performance and activity of the Licensing Partnership. Members were advised that at the time of publication figures for Maidstone had not been finalised but would be circulated.

The Head of the Licensing Partnership highlighted that due to staffing levels over the year compliance and enforcement performance targets were not met on occasion but this did not mean that action had not been taken but rather had missed the target date by one or two days. The Coronavirus had also had an impact as it meant that visits could not be carried out. As the team were now fully staffed the Head of the Licensing Partnership was confident targets would be met again.

In response to questions, Members were informed that the service plan had been amended to help manage situations such as the Coronavirus going forward. Additional considerations were given to health and safety in achieving workable solutions in ways to help support the trade. Discussions were taking place with how some face to face services could be reintroduced. The service had continued to run, during lockdown with some alterations to services and premises were being encouraged to have discussions with the Licensing team before advice on reopening from the Government was received.

Members were advised that for taxi drivers during lockdown the Licensing Partnership were continuing to allow renewal of licences but fees were not being taken. On application of renewal a declaration was required to be signed so that when the money was required the taxi drivers were agreeing to pay the fee within a set period of time.

Resolved: That the performance of the partnership be noted, and the Head of the Licensing Partnership continue to provide an annual update on the Licensing Partnership activity to the Licensing Committee each municipal year.

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35. Work Plan

Members discussed the work plan and agreed to include an update on licensing within the fees report that would be going to the meeting on 5 January 2021.

THE MEETING WAS CONCLUDED AT 3.49 PM

CHAIRMAN

LICENSING HEARING

Minutes of the meeting held on 1 July 2020 commencing at 10.30 am

Present: Cllr. Clack (Chairman)

Cllrs. Coleman and Hunter

Also Present:	Viktoria Sukovata	Applicant
	Tim StClair-Pearce	Applicant's representative
	Graham Collins	Respondent
	Sean Jefferson	Respondent
	Vera Jefferson	Respondent
	Peter McCracken	Respondent
	Cllr Carroll	SDC Councillor (part)
	David Lagzdins	Legal Advisor (SDC)
	Jessica Foley	Senior Licensing Officer (SDC)
	Susan Lindsey	Senior Licensing Officer (SDC)
	Vanessa Etheridge	Democratic Services Officer (SDC)

1. Appointment of Chairman

Resolved: That Cllr. Clack be appointed Chairman of the meeting.
(Councillor Clack in the Chair)

2. Declarations of interest

There were none.

3. Report to Licensing Sub-Committee - Application for a Premises Licence in respect of, The Chequers Inn, High Street, Farningham, Dartford, DA4 0DT

The Chairman welcomed everyone to the meeting.

The Hearing gave consideration to the report by the Senior Licensing Officer giving details of an application for a new premises license for The Chequers Inn, High Street, Farningham, under the Licensing Act 2003. She provided a brief overview of the application, explaining that during the consultation period 11 representations had been received from local residents and the Parish Council. Despite the fact that there appeared to have been local agreement with regard to reduced hours and/or activities as this was not completely clear it had felt most appropriate to present all original representations and the original application to the Licensing Sub Committee for consideration. Providing an opportunity for all parties to address the Hearing regarding the issues.

The Applicant was in attendance with a representative. The Hearing heard from the Applicant who summarised her application advising that she had 15 years' experience within the trade and that it was a traditional country pub. With regards to noise issues, she advised that she followed the conditions attached to the last licence. She kept doors shut and the windows were sealed and she did supervise performers leaving and loading equipment.

There were notices everywhere at exits requesting them to leave the premises quietly. There have been no issues with the Police. She also advised that she would be happy to revert her application request to the previous premises licence times and conditions issued in 2007, except with the addition of live sports. She was happy to listen to neighbours and customers for a positive result. She was always at the premises. In October 2019 over 100 people had rejected the idea of closing the pub.

The Applicant responded to Members' questions of clarification. She advised that speaking with a Licensing Officer at the Council, the presentation of films had seemed a good idea as live bands were expensive and she wanted to offer something a little more for the customer experience. It had been suggested in these talks that the films could be shown outside. She further described the size of the garden and gazebo and the possible ways it could be rearranged. She offered to withdraw her request for showing films and again reiterated she would be happy to revert to the same conditions as the 2007 licence.

During the questions the Chairman clarified that due to deregulation, films, plays, live and recorded music could take place inside the premises if finished no later than 23:00hrs.

In response to questions as to whether she had had specific complaints, she advised that she had had discussions with the Parish Council, customers and neighbours. Parking was an issue but there were other premises in the area and could not be solely attributed to her customers. Parking was a general issue in the area. She had asked the other public house whether she could use their car park. He phone number was clearly available for anyone to ring.

Residents present at the meeting took the opportunity to ask questions of the Applicant which centred around noise nuisance from volume, the doors being open, anti-social behaviour, parking problems, drug use and the use of the street furniture outside the premises.

In response to those questions the Applicant clarified the current operating times of the 2007 premises licence, and advised that she could start activities such as open mike nights earlier at 19:0hrs. She did not agree with closing at 23:00hrs every night as she wanted to maintain what was already on offer as a minimum. She believed 9-12 patrons could be accommodated in the back garden. There was CCTV which was monitored, and the Parish Council had CCTV outside the premises. As already stated the windows were sealed and the doors were kept shut except for people entering and exiting the premises.

A resident advised that the main issues that needed addressing were the noise and anti-social behaviour at the front of the premises, along with illegal parking. He

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would prefer it if the premises shut at 23:00hrs each day. That all the doors and windows remained shut, stating that very often the doors were propped open, and that the on street furniture at the front should be removed. In response to a question he advised that he had not officially complained to the Police or Environmental Health with regards to the anti-social behaviour and noise. However he had been in contact with Police over an accident, the District Council Civil Enforcement Officers and the bus companies due to their issues with illegal parking and access to the roads.

The legal advisor explained that the premises licence did not cover street furniture and that this was an issue for the Highways Authority and was a separate statutory process.

Another local resident raised concerns about the noise from the beer garden, in response to questions he also confirmed he had not officially complained but said that he would not know who to complain to.

The Chairman advised that for noise nuisance he could complain to the District Council's Environmental Health team, and the Police or Licensing Authority with regards to anti-social behaviour, or even speak to the premises holder.

Other residents against the application spoke along similar lines of concern with regards to the anti-social behaviour at the front, noise nuisance from volume and open doors, hours, and parking. Residents felt they could not complain and felt intimidated by those responsible for the anti-social behaviour.

The Applicant took the opportunity to sum up and reiterated her 15 years' experience and that she wanted local community support.

At 12:10 p.m. the Hearing Panel Members adjourned to consider the issues raised, accompanied by the Council's Legal Advisor and Clerk to the Hearing for the purpose of providing advice only.

At 13.17 p.m. the Hearing Panel Members, Council's Legal Advisor and Clerk to the Hearing reconvened the meeting.

The Chairman clarified with the Senior Licensing Officer the extent of the previous licence for providing late refreshments.

The Chairman informed the Hearing that the Sub-Committee had had regard to the representations made by the Applicant and interested parties, the Licensing Act 2003, Secretary of State's Amended Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy and was granting the application in line with the previous hours and conditions under the 2007 premises licence subject to a few changes. He noted that there had been no Police or Environmental Health representations, and the hours of operations afforded under the previous 2007 application had always been there even if not fully operated on.

The Chairman also advised that much of what was applied for was now possible due to deregulation, and that parking and street furniture issues could be pursued

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with the relevant authorities but were not licensable activities as part of this premises licence application.

Resolved: That a Premises Licence in respect of subject to mandatory conditions and additional conditions contained in the notice of determination attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 1.28 PM

CHAIRMAN

LICENSING ACT 2003 - Section 23**Notice of determination for application premises licence****To: Viktoria Sukovata****of: The Chequers Inn for a new premises licence for The Chequers Inn, High Street, Farningham, Kent DA4 0DT****Ref: 20/00780/LAPRE**

Sevenoaks District Council being the licensing authority, on the 6 March 2020 received an application for a premises licence in respect of premises known as The Chequers Inn for a new premises licence for The Chequers Inn, High Street, Farningham, Kent DA4 0DT

On the 1 July 2020 there being valid representations which were received and had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

To grant the Premises Licence:

Section A	To allow Plays indoors Mondays 08:30 - 23:00.
Section C	To allow Indoor sporting events on Friday to Saturday from 18:00 to 00:00 hours, Monday from 18:00 to 00:00 hours, Sunday from 18:00 to 23:00 hours and Tuesday, Wednesday and Thursday from 18:00 to 23:00 hours.
Section E	To allow Live music indoors on Monday to Saturday from 19:00 to 23:00 hours, and Sunday from 19:00 to 22:00 hours.
Non-standard timings	New Year's Eve, Christmas Eve, Boxing Day and all Friday, Saturday, Sunday and Mondays of a Bank Holiday weekend, the hours shall be extended to 01:00hrs
Section F	To allow Recorded music indoors Monday to Sunday from 19:00 to 23:00 hours.
Non-standard timings	New Year's Eve, Christmas Eve, Boxing Day and all Friday, Saturday, Sunday and Mondays of a Bank Holiday weekend, the hours shall be extended to 01:00hrs
Section H	To allow anything similar to Live music, Recorded music or performance of dance on Monday to Saturday from 19:00 to 23:00 hours, and Sunday from 19:00 to 22:00 hours.
Non-standard timings	New Year's Eve, Christmas Eve, Boxing Day and all Friday, Saturday, Sunday and Mondays of a Bank Holiday weekend, the hours shall be extended to 01:00hrs

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Section I	To allow Late night refreshment indoors on Monday from 23:00 to 00:30 hours, Tuesday from 23:00 to 23:30 hours, Thursday to Saturday from 23:00 to 00:30 hours, Wednesday from 23:00 to 00:00 hours and Sunday from 23:00 to 23:30 hours.
Non-standard timings	New Year's Eve, Christmas Eve, Boxing Day and all Friday, Saturday, Sunday and Mondays of a Bank Holiday weekend, the hours shall be extended to 02:30hrs
Section J	To allow the supply of alcohol for consumption both on and off the premises on Friday and Saturday from 10:00 to 00:00 hours, Monday from 10:00 to 00:00 hours, Tuesday, Wednesday, Thursday and Sunday from 10:00 to 23:00 hours.
Non-standard timings	New Year's Eve, Christmas Eve, Boxing Day and all Friday, Saturday, Sunday and Mondays of a Bank Holiday weekend, the hours shall be extended to 02:30hrs
Section L	To allow the premises to be open to the public Friday and Saturday from 10:00 to 00:30 hours, Monday from 10:00 to 00:30 hours, Tuesday, Wednesday, Thursday and Sunday from 10:00 to 23:30 hours.
Non-standard opening hours	New Year's Eve, Christmas Eve, Boxing Day and all Friday, Saturday, Sunday and Mondays of a Bank Holiday weekend, the hours shall be extended to 02:30hrs

Mandatory conditions - the following conditions will be added to the premises licence when it is issued.

1. The supply of alcohol

- Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

2. Mandatory conditions in force from 28 May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula— $P = D + (D \times V)$
where -
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 4.
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or

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supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

3. Mandatory Conditions in force from 01 October 2014

1.

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3.

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

4. The responsible person must ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

To add the following conditions to the Licence as follows:

- 1 All staff training to be recorded.
- 2 A Refusal book must be in operation.
- 3 Disposal of waste bottles into receptacles where the noise will be audible to neighbouring properties must not occur between 22:00 and 07:00 hours.
- 4 Prominent, clear and legible notices are to be displayed at all exits requesting patrons to respect the needs of local residents and to leave the

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premises and the area quietly.

- 5 Performers should be supervised to ensure the loading of equipment at the end of any event does not disturb surrounding residents.
- 6 Live music should be limited to once in any 7 day period.
- 7 Recorded music should be limited to once in any 7 day period.
- 8 The licensee or a nominated representative shall provide a current telephone contact number to neighbouring residents and shall receive and respond to complaints throughout the duration of all noisy events. If there is not a satisfactory response then the resident should contact Environmental Health.

Reason: These conditions are in line with the previous premises licence issued in 2007 and the operating schedule.

This licence granted at the Hearing is effective from the 1 July 2020.

Dated: 1 July 2020

Please address any communications to:

Licensing Partnership
Sevenoaks District Council
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

LICENSING HEARING

Minutes of the meeting held on 30 July 2020 commencing at 10.30 am

Present: Cllr. Esler (Chairman)

Cllrs. Layland and Raikes

Also Present	Jack Coleman	Applicant
	Debbie Roscoe	Respondent
	Mr Weatherly	Respondent
	Teresa Bloomfield	Respondent
	Cllr Carroll	SDC Councillor (part)
	David Lagzdins	Legal Advisor (SDC)
	Jessica Foley	Senior Licensing Officer (SDC)
	Charlotte Sinclair	Democratic Services Officer (SDC)
	Emilia Peters	Democratic Services Officer (SDC)

1. Appointment of Chairman

Resolved: That Cllr Esler be appointed Chairman of the meeting.

(Cllr Esler in the Chair)

2. Declarations of interest

There were none.

3. Report to Licensing Sub-Committee - For a New Premises Licence in respect of, Redlibbets Golf Club, West Yoke, Ash, Kent TN15 7HT

The Chairman welcomed everyone to the meeting.

The Hearing gave consideration to the report by the Senior Licensing Officer giving details of an application for a new premises license for Redlibbets Golf Club. She provided a brief overview of the application, explaining that during the consultation period 15 representations had been received from local residents. She also brought to the attention of the Hearing the supplementary agenda which revised some of the proposals with respect to allowing live music both indoors and outdoors, recorded music and anything similar to live music, recorded music or performance of dance. There were also revised location plans.

The Applicant advised that following the discussions with Environmental Protection, he had reviewed and wished to reduce the timings for the sale of alcohol, and advised that it was their intention to work with the local community. The revised plan indicated where the music would take place outside and not go on

late into the night. The golf course would remain open to non-members on a pay and play basis.

The Legal Advisor reminded the Hearing that following the Live Music Act, as long as there was an alcohol licence in place, then the playing of live and recorded music was permitted until 11pm as long as there were limits to the number of people present. He also advised that the Hearing could consider whether the condition as agreed by the Applicant and Environmental Protection to close windows and doors, would be more appropriately applied to all activities taking place indoors rather than just the playing of live or recorded music.

The Applicant advised that in regards to alcohol timings they would be happy to change the application to reflect: Monday to Thursday 10am to 12am, Friday to Saturday 10am to 1am and Sunday 10am to 11.30pm.

Residents present took the opportunity to ask questions of the applicant, expressing their concerns at the alcohol licence going on too late. The Environmental Protection Officer advised that she had agreed with the Applicant what would be appropriate, following the licence that was already in place. She advised that there had been no substantial complaints on record regarding noise from the club house.

The Chairman requested clarification of Section H of the licensable activities, and whether this was to be amended to the same hours as agreed with Environmental Protection. The Applicant confirmed it was.

The Hearing heard from the residents present who expressed their concerns with the number of people who were drunk and disorderly leaving the golf club late at night and the disturbance this caused, as well as the additional traffic noise. The Chairman advised that although traffic noise was not a licensable activity, she requested that the Applicant may be minded to include additional signage at strategic points in the car park and at the club exit requesting Members and guests to be considerate of neighbouring residents when leaving. The Applicant advised that this would be something they could include in their policies and offered to place speed limit signs along the route. The golf club wanted to work with the local community and could also provide a direct manned telephone number for the residents to contact them on in the event of a complaint.

Members asked questions of clarification of the residents and whether noise disturbance was a long term issue occurring under previous ownership of the club. In response the resident advised that it had been a long term complaint and complaints had been made to Environmental Protection.

The Chairman requested that going forward better communication took place between the Applicant and residents, and if there was an infringement of the conditions in place then a complaint be made to Environmental Protection and the Licensing Team for investigation.

Members requested further information in regards to the outdoor refreshments and the trolley selling alcohol, and where the payment for the alcohol would be made.

Licensing Hearing - 30 July 2020

The Applicant advised that the selling of alcohol from the drinks buggy would be only during day-light hours for the users of the golf course only. Payment would be taken at the golf buggy. Following concerns raised by the residents present at the Hearing, it was suggested that additional training be provided to the golf buggy operators, regarding sales of alcohol for only the users of the golf club. The Applicant agreed to include this in the club's policies. The Applicant requested that alcohol could also be sold outside where music was permitted.

The Chairman confirmed that any fireworks displays would be limited to 12 times a year, within the marked area in the revised plan. She also queried whether Bank Holiday and New Year's Eve timings and when the playing of live or recorded music ended then all activities ended.

The Applicant requested that on a Sunday before a Bank Holiday to amend the supply of alcohol and the performance of live or recorded music to continue to 11.30pm. He confirmed that he was happy for the actual Bank Holiday to remain as the standard timings.

The Environmental Protection Officer requested the outside timings on the day before Bank Holidays to remain as agreed, with the applicant to end at 10pm to prevent any nuisance of noise.

At 11.30 am the Sub-Committee ended the Hearing and the Chairman confirmed that a decision would be made within 5 working days and provided to the parties thereafter.

THE MEETING WAS CONCLUDED AT 11.30 AM

CHAIRMAN

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LICENSING ACT 2003 - Section 23

Notice of determination for application premises licence

To: Jack Coleman

of: Redlibbets Golf Club, West Yoke, Ash, Kent TN15 7HT

Ref: 20/01307/LAPRE

Sevenoaks District Council being the licensing authority, on the 26 May 2020 received an application for a premises licence in respect of premises known as Redlibbets Golf Club, West Yoke, Ash, Kent TN15 7HT

On the 30 July 2020 there being valid representations which were received and had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

To grant the Premises Licence:

Section E: To allow the performance of live music indoors:

Monday to Thursday 10:00 to 23:30 hours

Friday to Saturday 10:00 to 00:30 hours

Sunday 10:00 to 22:00 hours

To allow the performance of live music outdoors

Monday to Thursday 10:00 to 22:00 hours

Friday to Saturday 10:00 to 22:30 hours

Sunday 10:00 to 22:00 hours

Non-standard timings To allow the performance of live music indoors on the Sunday before Bank Holidays (where the Bank Holiday falls on a Monday) 10:00 to 23:00 hours and on New Year's Eve 10:00 to 00:30 hours on New Year's Day

Section F: To allow the playing of recorded music indoors:

Monday to Thursday 10:00 to 23:30 hours

Friday to Saturday 10:00 to 00:30 hours

Sunday 10:00 to 22:00 hours

To allow the playing of recorded music outdoors

Monday to Thursday 10:00 to 22:00 hours

Friday to Saturday 10:00 to 22:30 hours

Sunday 10:00 to 22:00 hours

Non-standard timings To allow the playing of recorded music indoors on the Sunday before Bank Holidays (where the Bank Holiday falls on a Monday) 10:00 to 23:00 hours and on New Year's Eve 10:00 to 00:30 hours on New Year's Day

Section H To allow anything similar to Live music, recorded music or performance of dance indoors:

Monday to Thursday 10:00 to 23:30 hours

Friday to Saturday 10:00 to 00:30 hours

Sunday 10:00 to 22:00 hours

To allow anything similar to Live music, recorded music or performance of dance outdoors

Monday to Thursday 10:00 to 22:00 hours

Friday to Saturday 10:00 to 22:30 hours

Sunday 10:00 to 22:00 hours

Non-standard timings To allow anything similar to live music, recorded music the playing of recorded music indoors on the Sunday before Bank Holidays (where the Bank Holiday falls on a Monday) 10:00 to 23:00 hours and on New Year's Eve 10:00 to 00:30 hours on New Year's Day

Section L To allow late night refreshment indoors:

Monday to Thursday 23:00 to 23:30 hours

Friday to Saturday 23:00 to 00:30 hours

Non-standard timings To allow the provision of late night refreshment indoors New Year's Eve 23:00 to 00:30 hours on New Year's Day

Section M To allow the supply of alcohol indoors for consumption on and off the premises

Monday to Thursday 10:00 to 23:30 hours

Friday to Saturday 10:00 to 00:30 hours

Sunday 10:00 to 22:00 hours

To allow the supply of alcohol outdoors for consumption on and off the premises

Monday to Thursday 10:00 to 22:00 hours

Friday to Saturday 10:00 to 22:30 hours

Sunday 10:00 to 22:00 hours

Non-standard timings To allow the sale of alcohol indoors for consumption on and off the premises on the Sunday before Bank Holidays (where the Bank Holiday falls on a Monday) 10:00 to 23:00 hours and on New Year's Eve 10:00

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to 00:30 hours on New Year's Day

Section O To allow the premises to be open to the public every day from 06:30 to 01:30 hours

Mandatory conditions - the following conditions will be added to the premises licence when it is issued.

1. The supply of alcohol

- Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:

No supply of alcohol may be made under the premises licence -

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

- Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

2. Mandatory conditions in force from 28 May 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1-
 - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula— $P = D + (D \times V)$
where -
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which

there is in force a premises licence -

- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 4.
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
 - (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

3. Mandatory Conditions in force from 01 October 2014

- 1.
- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

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- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
4. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for

consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

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Operating Schedule Conditions

- 1) All staff will undertake training on the sale of alcohol, particularly with regard to drunkenness and underage persons.
- 2) Records must be kept of all training and refresher training.
- 3) Any incidents of a criminal nature that may occur on the premises will be reported to the Police.
- 4) CCTV on the premises must be maintained and kept in good working order. Recordings will be kept for 31 days.
- 5) CCTV shall be made available to the police upon request.
- 6) The licensee and staff will ask persons who appear to be under the age of 25 years old for photographic ID only.
- 7) Photographic driving licence or passport will be accepted.
- 8) A register of refused sales shall be kept and maintained on the premises.

To add the conditions on the Licence as follows:

- 1) The performance of live music, the playing of recorded music, performance of dance or anything similar to these activities outdoors shall be restricted to the area defined on the attached plan

Reasons: For the prevention of public nuisance taking into account the representations of the Environmental Protection Service

- 2) The sale of alcohol outdoors shall only be permitted:
 - a. from a golf buggy during daylight hours; or
 - b. within the area defined on the attached plan

Reasons: For the prevention of public nuisance taking into account the representations of the Environmental Protection Service

- 3) All doors and windows to be closed by 22:30 hours, except for the immediate access and egress of persons.

Reasons: For the prevention of public nuisance taking into account the representations of the Environmental Protection Service

- 4) A dedicated and manned telephone will be available for residents to contact the Club in the event of a resident's complaint

Reasons: For the prevention of public nuisance taking into account the representations of the Environmental Protection Service

- 5) Prominent, clear and legible notices to be displayed at all exits and in the car park requesting patrons to be considerate and respect local residents and by leaving the premises and the area quietly.

Reasons: For the prevention of public nuisance taking into account the representations of the neighbouring properties

- 6) Fireworks to finish by 22:00 hours apart from New Year's Eve which would be allowed until 00:30 hours on New Year's Day and would be within the designated area. Fireworks to be restricted to 12 times per year.

Reasons: For the prevention of public nuisance taking into account the representations of the Environmental Protection Service

Informatives:

1. The Sub-Committee notes that the Applicant has stated that the Club will control the sale of alcohol from the Golf Buggy to users of the Golf Club premises. They have also confirmed that they will provide refresher training to those who make the sales and will adapt their policies to provide this control. The Council notes that without those controls it creates a risk to disorderly conduct off the premises.
2. The Sub-Committee notes that the Applicant has offered to provide additional signs along its access to control the speed of vehicles, to address concerns of nuisance from neighbouring properties.

Additional reasons for the decision:

the Sub-Committee had had regard to the representations made by the Applicant and interested parties, the Licensing Act 2003, Secretary of State's Amended Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy.

The Sub-Committee had regard to the previous licence held jointly for both Corinthians and Redlibbets Golf Club and was granting the licence in these terms only on the basis that the Applicants would not be entitled to rely on the previous licence. The Sub-Committee took into account the offers from the Applicant, as a result of discussions with Environmental Protection and during the Hearing, to reduce the hours applied for and also considered the outstanding and unresolved objections. The Sub-Committee considered the importance of supporting business in the District.

This licence granted at the Hearing is effective from the 30 July 2020.

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Dated: 30 July 2020

Please address any communications to:

Licensing Partnership

Sevenoaks District Council

Council Offices

PO Box 182

Argyle Road

Sevenoaks

Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

LICENSING HEARING

Minutes of the meeting held on 1 September 2020 commencing at 10.30 am

Present: Cllr. Hunter (Chairman)

Cllrs. Abraham and Coleman

Also Present: Applicant
Applicant's Representative
Democratic Services Officer
Senior Licencing Officer
Senior Solicitor

1. Appointment of Chairman

Resolved: That Cllr Hunter be appointed as Chairman of the meeting.

(Cllr Hunter in the Chair)

2. Declarations of interest

There were no additional declarations of interest.

3. Application for a Hackney Carriage Drivers Licence

Resolved: That under section 100A (4) of the Local Government Act 1972, the public were excluded from the meeting when considering the report, on the grounds that likely disclosure of exempt information was involved as defined by Schedule 12A, paragraph 1 (information relating to any individual), paragraph 2 (information which is likely to reveal the identity of an individual), and paragraph 7 (information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime).

The Hearing gave consideration to a report by the Chief Officer Planning & Regulatory Services giving details of a new dual Hackney Carriage and Private Hire Driver's Licence application under the Local Government (Miscellaneous Provisions) Act 1976, and the Town Police Clauses Act 1847. The application did not currently meet the criteria within the Council's statement of Hackney Carriage and Private Hire Licensing Policy, as detailed within the exempted report. The report requested that the Sub-Committee determine whether to grant the licence, to include consideration as to whether the applicant was a fit and proper person to hold the Licence.

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Licensing Hearing - 1 September 2020

The Senior Licensing Officer introduced the exempted report and gave background information to the Hearing.

The hearing heard further information from the Applicant's representative. In response to concerns raised, points of clarification were given by the Legal Advisor and Senior Licensing Officer.

At 11am the Sub-Committee ended the Hearing and the Chairman confirmed that a decision would be made and provided to the Applicant thereafter.

THE MEETING WAS CONCLUDED AT 11.00 AM

CHAIRMAN

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**STATUTORY GUIDANCE ISSUED BY THE SECRETARY OF STATE FOR TRANSPORT
TO PROTECT CHILDREN AND VULNERABLE INDIVIDUALS**

Licensing Committee - 22 September 2020

Report of Chief Officer, Planning & Regulatory Services

Status For Consideration and decision

Also considered by Council - 17 November 2020

Key Decision No

Executive Summary: This report provides information on changes to be considered and implemented in process and Policy as a result of Statutory guidance issued by the Secretary of State for Transport in June 2020, and other matters

Portfolio Holder Cllr. Margot McArthur

Contact Officer Susan Lindsey Ext. 7491

Recommendation to Licensing Committee: That

- (a) in response to the guidance, the proposed implementation of changes in process be noted;
 - (b) Members decide whether Officers should implement the provisions of section 165, 166 and 167 of the Equality Act 2010, or maintain current procedures;
 - (b) the draft policy in respect of NR3 at Appendix B, be approved for public consultation and if no unresolved objections are received, the Head of the Licensing Partnership be granted delegated authority to adopt the policy; and
 - (c) Council be recommended to approve the amendments to the Statement of Hackney Carriage and Private Hire Policy 2020-2023 as set out at paragraphs 20, 30, 51-52, 61, 65, 68, 77 and 80-81 of the report.
-

Recommendation to Council: That the amendments to the Statement of Hackney Carriage and Private Hire Policy 2020-2023 set out at paragraphs 20, 30, 51-52, 77 and 80-81 of the report, be approved

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Introduction and Background

- 1 The Secretary of State for Transport has issued new Statutory Guidance to Local Authorities on the exercising of taxi and private hire licensing functions. (*Appendix A*)
- 2 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.
- 3 It is expected the recommendations contained within this Guidance be implemented unless there is a compelling local reason not to.
- 4 The Guidance sets out a framework of policies that, under section 177(4), of the Policing and Crime Act 2017, licensing authorities **must have regard** to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire licensing regimes. ‘Having regard’ is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 5 ‘Having regard’ to these standards requires public authorities, in formulating a policy, to give considerations and 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.
- 6 Key points to take forward from this Guidance are listed below:
- 7 Licensing policies
- 8 **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.**
- 9 The Sevenoaks Hackney Carriage and Private Hire Licensing Policy is reviewed every 3 years during which time it is kept under review and revised as appropriate or after any significant legislative change.
- 10 Whistleblowing
- 11 **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.**
- 12 Sevenoaks District Council has a comprehensive Whistleblowing Policy which is regularly reviewed. This can be accessed via the Council’s intranet, Insite.

- 13 Consultation at a local level
- 14 **Licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change**
- 15 Sevenoaks District Council are keen to hear the views of persons affected by its Licensing Policy and have identified people and organisations within its Hackney Carriage and Private Hire licensing policy which reflect those used as examples in item 3.12 of the new Statutory Guidance.
- 16 Changing licensing policy and requirements
- 17 **Any changes in licensing requirements should be followed by a review of the licences already issued**
- 18 Implementation of any changes that affect current licence holders will be clearly communicated to all licence holders with further information accessible via the Sevenoaks District Council website.
- 19 In order to expedite minor amendments to Policy without the need for consultation or a full licensing committee decision it is requested Members consider the inclusion of the following statement in Policy:
- 20 *Minor amendments to this Policy required, for example, by virtue of legislative change or administrative procedural change, may be made by the Head of Licensing following consultation with the Chair of the Licensing Committee and the Cabinet Member with responsibility for Licensing.*
- 21 Common Law Police Disclosure
- 22 **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.**
- 23 A joint Licensing Compliance and Enforcement Protocol is in place covering all relevant licensing functions and all related topics, in as much as it applies to each individual organisation in Kent and Medway. These include, but are not exclusive to; Kent Police, Kent Fire & Rescue Service, Kent County Council Trading Standards, Gambling Commission, Securities Industry Authority, Public Health, Social Services, Licensing Operations at the Local Authorities in Kent and Medway.
- 24 Licensee self-reporting
- 25 **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.**
- 26 Current Sevenoaks District Council Policy states : A licence holder or applicant shall immediately notify the Council of any

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charges/convictions/cautions (including motoring offences) imposed during the term of their current licence or application.

27 Referrals to the Disclosure and Barring Service and the Police

28 **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**

29 This matter is not covered in the current Sevenoaks District Council Policy and Members are requested to consider including the following statement:

30 *Following a decision to refuse or revoke a licence by Sevenoaks District Council as the individual is thought to present a risk of harm to a child or vulnerable adult, the authority may consider a referral to the DBS under the Safeguarding Vulnerable Groups Act 2006.*

31 Sharing licensing information with other licensing authorities

32 **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**

33 The Local Government Association 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).

34 It is requested Members consider the implementation of the use by Sevenoaks District Council of this register in order to check new applicants refusal or revocation history with other authorities.

35 Prior to adopting use of the NR3 register, local authorities are required to consult with the trade, and Member approval to commence this consultation is requested.

36 Can Members also consider that, if no adverse comments are received to the implementation of this register, that this matter need not be brought back to the Licensing Committee for approval, and that this can be carried out by the Head of the Licensing Partnership

37 Should adverse comments be received, then this matter will be brought back to the Licensing Committee for further consideration.

38 A Draft Policy is at **Appendix B** (the Council's Officers have considered the Data Protection implications and have informed us that we may proceed with its next steps).

39 Complaints against licensees

- 40 **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.**
- 41 All complaints received are logged and investigated. The Sevenoaks Licensing Team are upgrading the current Uniform platform to 'Enterprise' which will allow better linking of individual records against investigative files.
- 42 Details of how to log a complaint against a licensed driver can be found on the website. This information is also provided within each licensed vehicle
- 43 Sevenoaks District Council has implemented a Penalty Points system in order to regulate enforcement and any action required.
- 44 Overseas convictions
- 45 **Licensing Authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas to properly assess risk and support the decision-making process.**
- 46 Prior to consideration of any new application, overseas applicants who have lived in the UK for a continuous period of less than five years are required to provide a certificate of good conduct from their previous country or countries of residence (within the previous 5 years) in addition to an Enhanced Certificate from the Disclosure & Barring Service.
- 47 Criminality checks for drivers
- 48 **All licensed drivers should be required to evidence continuous registration with the Disclosure & Barring Service (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.**
- 49 This is an increase on current checks (currently undertaken upon application; and every 3 years subsequent to the issue of the licence)
- 50 It is requested Members consider mandating the requirement for all drivers to sign up to the online DBS update service, and to include an administrative fee of £40 in addition to the cost of the DBS application on any manual Enhanced checks that need to be carried out.
- 51 *It will be a mandatory requirement for all drivers to sign up to the online Disclosure & Barring Service update service and to give Sevenoaks District Council authority to access records.*
- 52 *6 monthly DBS checks will be carried out throughout the duration of a licence : should the Authority not be able to access online records, a driver will still be required to undertake an Enhanced Check, at an additional cost*

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to the driver. If no check is undertaken within 2 months of the 6 month requirement; the licence will be suspended.

- 53 For Members information: in future, it will also be a requirement to have all licensed vehicle proprietors (that are not licensed drivers), and all Private Hire Operators licensed with the Authority to undertake Basic Disclosures on an annual basis.
- 54 Safeguarding awareness
- 55 Sevenoaks District Council provide Safeguarding Awareness Training as part of the application process and knowledge test.
- 56 Language proficiency
- 57 **A licensing authority's test of a driver's proficiency should cover both oral and written English language skills.**
- 58 Subject to the comments of Members, Officers intend to investigate external providers of oral and written English courses with a view to apply this for all new, and renewal of driver applications across the Licensing Partnership.
- 59 Booking and dispatch Staff
- 60 **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.**
- 61 Subject to the comments of Members Officers intend to add the following condition to all Private Hire Operator Licences
- 62 *A register of all staff that will take bookings or dispatch vehicles under the authority of the Private Hire Operator will be kept.*
- 63 *The Private Hire Operator will evidence they have had sight of a Basic DBS check on all individuals listed on that register and ensure that Basic DBS checks are undertaken on any individuals added to the register*
- 64 *The Private Hire Operator will evidence comparable protections are applied by other companies to which they outsource booking and dispatch functions*
- 65 Subject to the comments of Members, Officers intend that all new Private Hire Operator applicants must provide their policy on employing ex-offenders in roles that would be on the register above.
- 66 Use of passengers carrying vehicles (PCV) licensed drivers
- 67 **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.**

68 **Subject to the comments of Members, Officers intend to add the following condition to all Private Hire Operator Licences**

69 *Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than 8 passenger seats are required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licensed driver will be used who is subject to different checks and not required to have an enhanced DBS check.*

70 **Other Matters**

71 **Provision of Wheelchair accessible vehicle list**

72 The Government introduced in April 2017 sections 165 and 167 of the Equality Act 2010 in relation to the assistance of passengers in wheelchairs using designated taxis and private hire vehicles.

73 These allow the licensing authority to create a list of ‘designated vehicles’ which are capable of carrying passengers in wheelchairs (section 167) and then require drivers of those vehicles to provide mobility assistance (section 165) unless the local authority grant exemptions from the duties to individual drivers (section 166). Relevant sections of the Equality Act 2010 are at **Appendix C, D and E**

74 It is recommended that members consider points 72 and 73 and make a decision regarding whether to implement the provisions of section 165, 166 and 167 of the Equality Act 2010, or to maintain current procedures to provide this information upon request.

75 **Driver Group II Medicals**

76 Following feedback from the Trade of difficulties in accessing their own GP for Group II medicals to be undertaken, it is requested Members consider and approve the following amendment to Policy:

77 *All applicants will be required to obtain a Group 2 Medical standards certificate signed by their own GP, or another practitioner who has access to at least 2 years medical records.*

78 **Officer Discretion - maximum age of vehicles**

79 It is requested Members consider allowing officer discretion in exceptional circumstances to renew licences where vehicles have reached their upper age limit, but are still in pristine condition.

80 *The Authority will not license a vehicle, for the first time, if it is more than 6 years old and/or has travelled greater than 100,000 miles (apart from in exceptional circumstances at the discretion of an authorised officer)*

81 *The Authority will not re-licence a vehicle if it is more than 10 years old (15 years for wheelchair accessible vehicles) - apart from in exceptional circumstances at the discretion of an authorised officer.*

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Key Implications

Financial

None directly arising from this report

Legal Implications and Risk Assessment Statement

The Legal implications are as set out previously in this report

Equality Assessment

Except where otherwise stated in the report, the decisions recommended through this paper have a remote or low relevant to the substance of the Equality Act. There is no perceived impact on end users.

Appendices

Appendix A - Statutory Guidance
Appendix B - NR3 Draft Policy
Appendix C - Equality Act 2010 s165
Appendix D - Equality Act 2010 s166
Appendix E - Equality Act 2010 s167

Background Papers

[Sevenoaks District Council Hackney Carriage & Private Hire Policy](#)
[DoT Best Practice Guidance](#)

Richard Morris

Deputy Chief Executive - Chief Officer For Planning & Regulatory Services



Department
for Transport

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Appendix A

Statutory Taxi & Private Hire Vehicle Standards

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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.

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- 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

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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.**

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- 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

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- 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.

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- 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.

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- 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.

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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

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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 authorises 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—

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(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.

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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.

**POLICY IN RESPECT OF REQUESTS FOR INFORMATION,
DISCLOSURE OF INFORMATION, AND USE OF
INFORMATION AS A RESULT OF AN ENTRY ON NR3**



Introduction

Licensing Authorities are required to satisfy themselves that those holding a Hackney Carriage and Private Hire Vehicle (PHV) drivers licences are 'fit & proper' to do so. This is done firstly during the determination of an application for a licence, and then at any time during the period of holding a licence.

The process of assessing whether an applicant or licensee is 'fit & proper' may vary between authorities but there is widespread consensus on the need to increase consistency and set national standards for the fit and proper test at a suitably high level. This would help prevent individuals who have had a licence revoked by one authority from simply going to another area and securing a licence – assuming the second authority was aware of the earlier revocation.

Currently if drivers do not disclose information about a previous revocation or refusal of a licence, there is often no way for a licensing authority to find this information out. This means that vital intelligence about an applicants' past behaviour is being missed and an individual might be able to obtain a new licence in another area, despite having their licence revoked elsewhere. High profile instances of this happening have undermined public confidence in the safety of hackney carriage and PHVs, and left licensing authorities open to criticism for something that is currently very difficult for them to control.

In response to this issue this council has subscribed to the national register of hackney carriage and PHV driver licence refusals and revocations, the National Register of Refusals and Revocations' or NR3. The register will allow licensing authorities to record details of where a hackney carriage or PHV driver's licence has been refused or revoked, and allow licensing authorities to check new applicants against the register. This should help to prevent people found to be not fit and proper in one area from securing a licence somewhere else through deception and non-disclosure. For the avoidance of doubt, the NR3 does not extend to vehicle or operator licensing decisions.

1. Policy

In this policy, the 'first authority' refers to a licensing authority which made a specific entry onto the National Register of Refusals and Revocations; the 'second authority' refers to a licensing authority which is seeking more detailed information about the entry.

2. Overarching principles

This policy covers the use that this authority will make of the ability to access and use information contained on the National Register of Taxi Licence Revocations and Refusals (NR3). The NR3 contains information relating to any refusal to grant, or revocation of a taxi drivers' licence¹. This information is important in the context of a

¹ Throughout this policy reference is made to 'taxi drivers' licence.' This generic term covers a hackney carriage drivers' licence, a private hire drivers' licence and a combined/dual licence.

subsequent application to another authority for a drivers' licence by a person who has had their licence refused or revoked in the past.

This authority has signed up to the NR3. This means that when an application for a taxi drivers' licence is refused, or when an existing taxi drivers' licence is revoked, that information will be placed upon the register.

When an application for a new drivers' licence, or renewal of an existing drivers' licence is received, this authority will make a search of the NR3. The search will only be made by an officer who has been trained in the use of the NR3 and who is acting in accordance with this policy. If details are found that appear to relate to the applicant, a request will be made to the authority that entered that information for further details.

Any information that is received from any other authority in relation to an application will only be used in relation to that application, and the determination of it, and will not be used for any other purpose. Any data that is received will only be kept for as long as is necessary in relation to the determination of that application. This will include the period of processing that application, making a decision, notifying the applicant of the outcome of that decision, and the appeal processes.

For the avoidance of doubt, any such data will be kept for a period of no more than 35 days from the date of the service of the written notification of the determination of the application².

Where an appeal to the magistrates' court is made, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court, there is a further right of appeal to the Crown Court. In these circumstances, the data will be retained for a further period of no more than 35 days from the date of the decision of the magistrates' court. If an appeal is made to the Crown Court, the data will be retained until that appeal is determined or abandoned. Where the appeal is determined by the magistrates' court or the Crown Court, it is possible to appeal the decision by way of case stated³. Accordingly, the data will be retained for a period of no more than 35 days from the date of the decision of the Crown Court (if the decision was made by the magistrates' court, the retention period has already been addressed). If an appeal by way of case states (which will include potential appeals to the Court of Appeal and Supreme Court) have been determined.

The data will be held securely in accordance with this authority's general policy on the secure retention of personal data which is available at www.sevenoaks.gov.uk to the end of the retention period, the data will be erased and/or destroyed in accordance with this authority's general policy on the erasure and destruction which is available at www.sevenoaks.gov.uk

² The appeal period is 21 days from the date on which the written notification of the decision was received by the applicant/licensee. An appeal must be lodged within that time period, and no extension of that period is permissible (see *Stockton-on-Tees Borough Council v Latif* [2009] LLR 374). However to ensure that the information is available if an appeal is lodged and there is a dispute over time periods, a period of 35 days is specified.

³ Any appeal by way of a case must be lodged within 21 days of the decision of either the Magistrates Court or the Crown Court (see The Criminal Procedure Rules R35.2). To ensure that the information is available if an appeal is lodged by way of case stated and there is a dispute over time periods, a period of 35 days is specified.

3. Making a request for further information regarding an entry in NR3

When an application is made to this authority for the grant of a new, or renewal of, a taxi drivers' licence this authority will check the NR3.

This authority will make and then retain a clear written record of every search that is made of the register. This will detail:

- the date of the search;
- the name or names searched;
- the reason for the search (new application or renewal);
- The results of the search; and
- The use made of the results of the search (this information will be entered to the register at a later date).

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

If this authority discovers any match (i.e. there is an entry in the register for the same name and identifying details) a request will be made to the authority that entered those details (the first authority) for further information about that entry. That request will also include details of this authority's data protection policy in relation to the use of any data that is obtained as a result of this process.

This request will be made in writing in accordance with the form at **Appendix 1** of this policy. It will be posted or emailed to the contact address of the authority that entered those details (the first authority) which will be detailed in the register.

4. Responding to a request for further information regarding an entry on NR3

When this authority receives a request for further information from another authority a clear written record will be made of the request having been received. This record will not be combined with any other records (i.e. a combined register of licences granted) and will be retained for the retention period of 25 years.

This authority will then determine how to respond to the request. It is not lawful to simply provide information as a blanket response to every request.

This authority has conducted a Data Protection Impact Assessment. This has considered how the other authority (the second authority) will use the data, how it will store that data to prevent unauthorised disclosure, the retention period for that data, and the mechanism for erasure or destruction of the data at the end of the period. It is expected that if the second authority has adopted a policy similar to this, that should be a reasonably straightforward process.

If this authority is satisfied that the other authority's (the 2nd authority) data protection procedures are satisfactory, consideration will then be given as to what information will be disclosed. This will be determined by an officer who has been trained to discharge this function.

Any disclosure must be considered and proportionate, taking into account the data subjects' rights and the position and responsibilities of a taxi driver. Data is held on the NR3 register for a period of 25 years, but this authority (the 1st authority) will not disclose information relating to every entry. Each application will be considered on its own merits.

We will disclose information relating to a revocation or refusal to grant a drivers' licence in accordance with the timescales contained within this authority's Hackney Carriage and Private Hire Licensing Policy (Relevance of Convictions and Cautions). Where the reason for refusal to grant or revocation relates to a conviction which is within the timescales determined in those guidelines, the information will be disclosed. Where the reason for refusal to grant or revocation relates to a conviction which is outside those guidelines, the information will not be disclosed. However, in every case, consideration will be given to the full circumstances of the decision and there may be occasions where information is provided other than in accordance with this policy.

Lawful basis for processing : It is necessary for the Council to process the personal data contained in the records in the exercise of official authority. To this end the lawful basis relied upon is 'Public Task'.

The public functions and powers in respect of applications for hackney Carriage Licensing are set out in law. In the light of government guidance the Council could not reasonable perform the task or exercise the powers in a less intrusive way.

Any information about convictions will be shared in accordance with this policy under part 2 of schedule 1 to the Data Protection Act (DPA) 2018; that is, the processing is necessary for reasons of substantial public interest in connection with the exercise of a function conferred on the authority by an enactment or rule of law.

The officer will record what action was taken and why. This authority will make and then retain a clear written record of every decision that is made as a result if a request from another authority. This will detail:

- the date the request was received
- how the data protection impact assessment was conducted and its conclusions
- the name or names searched
- whether any information was provided
- if information was provided, why it was provided (and details of any further advice obtained before the decision was made)
- if information was not provided, why it was not provided (and details of any further advice obtained before the decision was made) and
- how and when the decision (and any information) was communicated to the requesting authority.

This record will not be combined with any other records (i.e. combined with a register of licences granted) and will be retained for the retention period of 25 years.

5. Using any information obtained as a result of a request to another authority

Agenda Item 4

When this authority receives information as a result of a request that has been made to another authority, it will take that information into account when determining the application for the grant or renewal of a taxi drivers' licence. This will be in accordance with the usual process for determining applications.

This authority will make and then retain a clear written record of the use that is made of the results of the search (this information will be added to the register detailed above).

Information that is received may warrant significant weight being attached to it, but it will not be the sole basis for any decision that this authority will make in relation to the application.

APPENDIX 1

Information Disclosure Form

This form is submitted following a search of the National Register of Refusals and Revocations (NR3)

Name of licensing authority requesting information (<i>For completion by requestor authority</i>)	
Requestor authority reference number	
Name of licensing authority from which information is sought	
Name of individual in respect of whom the information is sought	
Decision in respect of which the request is made: a) Refusal b) Revocation	
Other details for this record: Address: Driving Licence Number	

Agenda Item 4

National Insurance Number (NI)	
Reference Number	

DECLARATION BY REQUESTING AUTHORITY:

The authority hereby confirms that this information is being sought in connection with the exercising of its statutory function to ensure that holders of taxi/private hire vehicle licences are fit and proper persons, and that the processing of this data is therefore necessary in the performance of a task carried out in the public interest.

The information provided below will only be processed, used and saved by the authority in connection with this particular application and in accordance with all relevant data and privacy requirements, as previously advised by the authority to applicants for and existing holders of taxi and private hire vehicles, and will be retained in accordance with the Authority's retention policy relating to the provision of such information.

To enable the authority to conduct a data protection impact assessment, details of this authority's policy in relation to the use of information obtained as a result of this request can be accessed at www.sevenoaks.gov.uk

Signed:

Name:

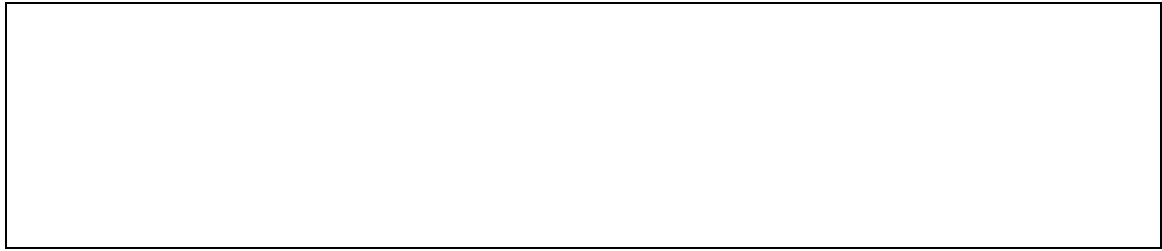
Position:

Date:

(For completion by providing authority)

Further information to support decision recorded on NR3 in respect of the above named individual

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Declaration by providing authority

The authority hereby confirms that it has concluded a data protection impact assessment.

It also confirms that the information above is accurate and has been provided after thorough consideration by the authority as to the proportionality and lawfulness of making this disclosure. The information reflects the basis on which the decision recorded in the National Register of Refusals and Revocations was made. In the event that the authority becomes aware that this information is no longer accurate, we will advise the above-named authority accordingly.

The authority also confirms that, as part of the basis for securing, retaining or applying for a tax/private hire drivers' licence the above named individual has been made aware to the fact that this information will be shared, in accordance with all relevant data and privacy requirements.

Signed:

Name:

Position:

Date:

Equality Act 2010

2010 CHAPTER 15

PART 12

DISABLED PERSONS: TRANSPORT

CHAPTER 1

TAXIS, ETC.

165 Passengers in wheelchairs

- (1) This section imposes duties on the driver of a designated taxi which has been hired—
 - (a) by or for a disabled person who is in a wheelchair, or
 - (b) by another person who wishes to be accompanied by a disabled person who is in a wheelchair.
- (2) This section also imposes duties on the driver of a designated private hire vehicle, if a person within paragraph (a) or (b) of subsection (1) has indicated to the driver that the person wishes to travel in the vehicle.
- (3) For the purposes of this section—
 - (a) a taxi or private hire vehicle is “designated” if it appears on a list maintained under section 167;
 - (b) “the passenger” means the disabled person concerned.
- (4) The duties are—
 - (a) to carry the passenger while in the wheelchair;
 - (b) not to make any additional charge for doing so;
 - (c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
 - (d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
 - (e) to give the passenger such mobility assistance as is reasonably required.

Changes to legislation: Equality Act 2010, Section 165 is up to date with all changes known to be in force on or before 19 July 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) Mobility assistance is assistance—
 - (a) to enable the passenger to get into or out of the vehicle;
 - (b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
 - (c) to load the passenger's luggage into or out of the vehicle;
 - (d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.
- (6) This section does not require the driver—
 - (a) unless the vehicle is of a description prescribed by the Secretary of State, to carry more than one person in a wheelchair, or more than one wheelchair, on any one journey;
 - (b) to carry a person in circumstances in which it would otherwise be lawful for the driver to refuse to carry the person.
- (7) A driver of a designated taxi or designated private hire vehicle commits an offence by failing to comply with a duty imposed on the driver by this section.
- (8) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) It is a defence for a person charged with the offence to show that at the time of the alleged offence—
 - (a) the vehicle conformed to the accessibility requirements which applied to it, but
 - (b) it would not have been possible for the wheelchair to be carried safely in the vehicle.
- (10) In this section and sections 166 and 167 “private hire vehicle” means—
 - (a) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;
 - (b) a vehicle licensed under section 7 of the Private Hire Vehicles (London) Act 1998;
 - (c) a vehicle licensed under an equivalent provision of a local enactment;
 - (d) a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982.

Commencement Information

- 11** S. 165 partly in force; s. 165 not in force at Royal Assent see s. 216; s. 165 in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(1\)\(12\)\(b\)](#) (with [art. 15](#))
- 12** S. 165 in force at 6.4.2017 in so far as not already in force by [S.I. 2017/107](#), [art. 2\(a\)](#)

Changes to legislation:

Equality Act 2010, Section 165 is up to date with all changes known to be in force on or before 19 July 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 140B(1) words omitted by S.I. 2019/469 Sch. 1 para. 17(6)
- s. 209(3)(e) inserted by 2018 anaw 2 Sch. 1 para. 19(4)
- Sch. 3 para. 17(4)(d) and word omitted by S.I. 2019/305 reg. 5(7)(b)(iii)(dd)
- Sch. 17 para. 6AA and cross-heading inserted by 2018 anaw 2 Sch. 1 para. 19(5)(f)
- Sch. 17 para. 6F inserted by 2018 anaw 2 Sch. 1 para. 19(5)(h)
- Sch. 17 para. 3A(1)(a)(b) substituted for words by 2018 anaw 2 Sch. 1 para. 19(5)(d)(i)

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Appendix D



Equality Act 2010

2010 CHAPTER 15

PART 12

DISABLED PERSONS: TRANSPORT

CHAPTER 1

TAXIS, ETC.

166 Passengers in wheelchairs: exemption certificates

- (1) A licensing authority must issue a person with a certificate exempting the person from the duties imposed by section 165 (an “exemption certificate”) if satisfied that it is appropriate to do so—
 - (a) on medical grounds, or
 - (b) on the ground that the person's physical condition makes it impossible or unreasonably difficult for the person to comply with those duties.
- (2) An exemption certificate is valid for such period as is specified in the certificate.
- (3) The driver of a designated taxi is exempt from the duties imposed by section 165 if—
 - (a) an exemption certificate issued to the driver is in force, and
 - (b) the prescribed notice of the exemption is exhibited on the taxi in the prescribed manner.
- (4) The driver of a designated private hire vehicle is exempt from the duties imposed by section 165 if—
 - (a) an exemption certificate issued to the driver is in force, and
 - (b) the prescribed notice of the exemption is exhibited on the vehicle in the prescribed manner.
- (5) For the purposes of this section, a taxi or private hire vehicle is “designated” if it appears on a list maintained under section 167.

Agenda Item 4

2

Equality Act 2010 (c. 15)
Part 12 – Disabled persons: transport
Chapter 1 – Taxis, etc.
Document Generated: 2020-06-26

Changes to legislation: *Equality Act 2010, Section 166 is up to date with all changes known to be in force on or before 26 June 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

- (6) In this section and section 167 “licensing authority”, in relation to any area, means the authority responsible for licensing taxis or, as the case may be, private hire vehicles in that area.

Changes to legislation:

Equality Act 2010, Section 166 is up to date with all changes known to be in force on or before 26 June 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 140B(1) words omitted by S.I. 2019/469 Sch. 1 para. 17(6)
- s. 209(3)(e) inserted by 2018 anaw 2 Sch. 1 para. 19(4)
- Sch. 3 para. 17(4)(d) and word omitted by S.I. 2019/305 reg. 5(7)(b)(iii)(dd)
- Sch. 17 para. 6AA and cross-heading inserted by 2018 anaw 2 Sch. 1 para. 19(5)(f)
- Sch. 17 para. 6F inserted by 2018 anaw 2 Sch. 1 para. 19(5)(h)
- Sch. 17 para. 3A(1)(a)(b) substituted for words by 2018 anaw 2 Sch. 1 para. 19(5)(d)(i)

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Appendix E

Equality Act 2010

2010 CHAPTER 15

PART 12

DISABLED PERSONS: TRANSPORT

CHAPTER 1

TAXIS, ETC.

167 Lists of wheelchair-accessible vehicles

- (1) For the purposes of section 165, a licensing authority may maintain a list of vehicles falling within subsection (2).
- (2) A vehicle falls within this subsection if—
 - (a) it is either a taxi or a private hire vehicle, and
 - (b) it conforms to such accessibility requirements as the licensing authority thinks fit.
- (3) A licensing authority may, if it thinks fit, decide that a vehicle may be included on a list maintained under this section only if it is being used, or is to be used, by the holder of a special licence under that licence.
- (4) In subsection (3) “special licence” has the meaning given by section 12 of the Transport Act 1985 (use of taxis or hire cars in providing local services).
- (5) “Accessibility requirements” are requirements for securing that it is possible for disabled persons in wheelchairs—
 - (a) to get into and out of vehicles in safety, and
 - (b) to travel in vehicles in safety and reasonable comfort,either staying in their wheelchairs or not (depending on which they prefer).
- (6) The Secretary of State may issue guidance to licensing authorities as to—

Changes to legislation: Equality Act 2010, Section 167 is up to date with all changes known to be in force on or before 23 July 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) the accessibility requirements which they should apply for the purposes of this section;
 - (b) any other aspect of their functions under or by virtue of this section.
- (7) A licensing authority which maintains a list under subsection (1) must have regard to any guidance issued under subsection (6).

Commencement Information

- I1** S. 167 partly in force; s. 167 not in force at Royal Assent see s. 216; s. 167(6) wholly in force and s. 167(1)-(5)(7) in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(1\)\(12\)\(d\)\(e\)](#) (with [art. 15](#))
- I2** S. 167(1)-(5) (7) in force at 6.4.2017 in so far as not already in force by [S.I. 2017/107](#), [art. 2\(b\)](#)

Changes to legislation:

Equality Act 2010, Section 167 is up to date with all changes known to be in force on or before 23 July 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 140B(1) words omitted by [S.I. 2019/469 Sch. 1 para. 17\(6\)](#)
- s. 209(3)(e) inserted by [2018 anaw 2 Sch. 1 para. 19\(4\)](#)
- Sch. 3 para. 17(4)(d) and word omitted by [S.I. 2019/305 reg. 5\(7\)\(b\)\(iii\)\(dd\)](#)
- Sch. 17 para. 6AA and cross-heading inserted by [2018 anaw 2 Sch. 1 para. 19\(5\)\(f\)](#)
- Sch. 17 para. 6F inserted by [2018 anaw 2 Sch. 1 para. 19\(5\)\(h\)](#)
- Sch. 17 para. 3A(1)(a)(b) substituted for words by [2018 anaw 2 Sch. 1 para. 19\(5\)\(d\)\(i\)](#)

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Licensing Committee Work Plan 2019/21 (as at 27/08/2020)

22 September 2020	5 January 2021	24 March 2021	Summer 2021
Revision of Taxi Policy	Licensing Fees (including an update on licensing following the Coronavirus)		

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