

Public Document Pack



MEETING:	General Licensing Regulatory Board
DATE:	Wednesday, 24 April 2019
TIME:	2.00 pm
VENUE:	Reception Room, Barnsley Town Hall

SUPPLEMENTARY AGENDA

2a DoT Consultation response (*Pages 3 - 30*)

Further to minute 45 of the previous meeting held on the 20th February, 2019, the Service Director Legal Services will present the response submitted by the Authority following the Taxi and Private Hire DoT consultation.

To: Chair and Members of General Licensing Regulatory Board:-

Councillors C. Wraith MBE (Chair), P. Birkinshaw, Burgess, Cave, Clarke, M. Dyson, Ennis OBE, Frost, Daniel Griffin, C. Johnson, W. Johnson, Kitching, Lamb, Lofts, Markham, Millner, Murray, Newing, Richardson, Saunders, Shepherd, Sixsmith MBE, Sumner, Tattersall, Williams and Wilson

Andrew Frosdick, Executive Director Core Services
Matt Gladstone, Executive Director Place
Kevin Glover, Strategic Manager - Transport
Kate Liddall, Senior Licensing Officer
Garry Kirk, Service Director Legal Services
Sajeda Khalifa, Solicitor
Debbie Bailey, Regulatory Services Field Officer

Please contact William Ward on or email governance@barnsley.gov.uk

17th April, 2019

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Taxi and private hire vehicle licensing: protecting users

1. Introduction

Thank you for taking the time to read the consultation document and to respond to the questions. Your answers will help us to firm up statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults.

The easiest way to respond to this consultation is online:

<https://www.smartsurvey.co.uk/s/taxis-licence/>

The online version allows you to save your response and continue it later and to save or print off a copy for your records.

Confidentiality and data protection

The Department for Transport (DfT) is carrying out this consultation to gather views and evidence on measures for inclusion within the statutory guidance issued to taxi and PHV licensing authorities. This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department. If your answers contain any information that allows you to be identified, DfT will, under data protection law, be the controller for this information.

As part of this consultation we're asking for your name and email address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions.

We may contract a third party to analyse the responses we receive to the consultation. If you provide your contact details, we may share this information with a contractor in case they need to contact you regarding your consultation response.

DfT's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at <https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>.

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Your information will be kept securely and destroyed within 12 months after the consultation has been completed. Any information provided through the online questionnaire will be moved from their system to our internal systems within 2 months of the consultation end date.

Find out more about the [Department for Transport's data protection and privacy policy](#).

2. Personal details

1. Your name and email address. We will only use this if we need to contact you to ask about any of your responses.

Your name

Your email

3. About you

2. Are you responding: *

- as an individual?
- as a taxi driver?
- as a PHV driver?
- as a taxi intermediary?
- as a PHV operator?
- a licensing authority**
- the police
- other (specify)?

4. Administration of the licensing framework

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

All our Members are trained before they are involved with determining licensing matters.

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We have a structure in place for dealing with licensing matters.

5. Implementing changes to the licensing policy and requirements

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

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

The protection and safety of the public is of paramount importance.

6. The Disclosure and Barring Service

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We already check all drivers and applicants accordingly.

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

Barnsley MBC took the decision in 2013 not to use the on line system so this will need to be re looked at following the consultation document.

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

7. Licensee self-reporting

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We currently condition our drivers to report offences within 5 working days.

8. Referrals to DBS and the police

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

Reports should be predominantly evidenced based.

9. Overseas convictions

11. The draft statutory guidance recommends that a check of overseas criminality information or 'Certificate of Good Character' should be required, when an individual has spent a period of more than 3 continuous months outside the UK when over the age of 18 (paragraph 2.47). Do you agree with this recommendation?

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We obtain as much detail as possible and Members will question the applicant further do determine if he is fit and proper when a Certificate of Good Character cannot be obtained.

10. Other information

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We ask all applicants the relevant questions to determine their history with another LA. We also contact the relevant LA to obtain further detail or clarification and confirmation.

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We are currently looking at changing our policy to enable us to use the NR3 system

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We already carry out this practise and consult with other LA accordingly.

11. Multi-agency safeguarding hub (MASH)

15. The draft statutory guidance recommends that multi-agency safeguarding hubs (or similar) should be established by licensing authorities to improve the sharing of relevant information (paragraph 2.64). Do you agree with this recommendation?

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We work closely with other LA's and share information accordingly.

12. Complaints against drivers and operators

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

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

We already provide all licensed vehicles with an internal plate that informs customers where to direct complaints and concerns relating to a driver or vehicle etc.

13. Safeguarding awareness

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

All our drivers have received Safeguarding Training and all new applicants receive the same, this compliments other work undertaken by the LA.

14. Language proficiency

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

A sound understanding of the English language is essential to communicate with customers and understand license conditions etc.

15. Enforcement

19. The draft statutory guidance recommends that licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area (paragraph 2.81). Do you agree with this recommendation?

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

National standard conditions would also simplify licence enforcement.

16. Criminal record checks for PHV operators

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

- Yes
- No**
- No opinion

Comment below if you want to explain your answer.

PHV Operators should be subject to an enhanced DBS disclosure to allow licensing officers to assess their suitability to hold a licence with as much information as possible.

We currently ask for an enhanced DBS disclosure and we would not want to lower this standard.

17. PHV operators - ancillary staff

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

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

Operating staff take bookings and dispatch drivers and so potentially have information relating to properties being vacant for a period of time. This information could potentially be used for criminal activity.

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

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

This is an additional safeguarding measure that could be undertaken to ensure all employees are fit and proper.

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

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

They should have a policy detailing unspent criminal convictions.

18. PHV operators - use of passenger carrying vehicles (PCV) licensed drivers

24. The draft statutory guidance that a PHV operator may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking. This would be a condition of the operator's licence (paragraph 2.100). Do you agree with this recommendation?

- Yes
- No
- No opinion

Comment below if you want to explain your answer.

There have been occasions in the past where we refused a PH driver licence application and the same person could drive PSV vehicles for the same PH company.

19. PHV operators – record keeping requirements

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We already condition the requirement to record this relevant information.

20. In-vehicle visual and audio recording - CCTV

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

A balanced approach should be used when considering mandating CCTV.

27. The draft statutory guidance recommends that CCTV recordings in taxis and PHVs should be encrypted and accessible only by licensing authority officials (if acting as a data controller), the police or when subject to a data subject access request (paragraph 2.114). Do you agree with this recommendation?

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

21. Stretched limousines

28. The draft statutory guidance recommends that licensing authorities should consider licensing vehicles with an Individual Vehicle Approval certificate, even if the passenger capacity is unclear, but under the strict condition that the vehicle will not be used to carry more than 8 passengers (paragraph 2.118). Do you agree with this recommendation?

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

A strict condition would be enforced by limiting the vehicle licence to the carriage of 8 passengers. Anything more would invalidate the vehicle licence and the insurance.

22. Previous convictions guidance

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

We have our own convictions policy and statutory guidance would support this.

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

- Yes**
- No
- No opinion

Comment below if you want to explain your answer.

31. Are there any offences that should be added to the list in Annex A?

- Yes
- No**
- No opinion

23. Other offences

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

24. Impact assessment

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

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

Ways to respond

Email this completed document to:

SG-Consultation2019@dft.gov.uk

Or post it to:

Department for Transport
Buses and Taxis Division (Statutory Guidance 2018 Consultation)
Great Minster House
33 Horseferry Road
London
SW1P 4DR