



RUSHMOOR BOROUGH COUNCIL

LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE

*at the Council Offices, Farnborough on
Monday, 25th March, 2019 at 7.00 pm*

To:

Cllr J.E. Woolley (Chairman)
Cllr Jacqui Vosper (Vice-Chairman)

Cllr Sue Carter
Cllr M.S. Choudhary
Cllr A.K. Chowdhury
Cllr Liz Corps
Cllr A.H. Crawford
Cllr A.J. Halstead
Cllr B. Jones
Cllr Marina Munro
Cllr M.D. Smith

Enquiries regarding this agenda should be referred to the Committee Administrator,
Kathy Flatt, Democratic and Customer Services, Tel. (01252 398829) or email
kathy.flatt@rushmoor.gov.uk.

A G E N D A

1. **MINUTES – (Pages 1 - 6)**

To confirm the Minutes of the Meeting held on 28th January 2018 (copy attached).

2. **PAY POLICY STATEMENT – (Pages 7 - 20)**

To consider the Executive Director (Customers, Digital and Rushmoor 2020) Report No. ED1904 (copy attached), which seeks approval for a Pay Policy Statement for 2019/20 for recommendation to full Council.

3. **INTERNAL AUDIT - UPDATE REPORT – (Pages 21 - 46)**

To consider the Internal Audit Manager's Report No. AUD1903 (copy attached), which provides an overview of the work completed by Internal Audit to date for Quarter 4 2018/19 and a schedule of work expected to be delivered in Quarter 4 2018/19 and Quarter 1 2019/20.

4. **GOVERNMENT CONSULTATION ON GUIDANCE TO TAXI AND PRIVATE HIRE LICENSING AUTHORITIES – (Pages 47 - 98)**

To consider the Head of Operational Services Report No. OS1905 (copy attached), which sets out a Department for Transport consultation on proposed statutory guidance to licensing authorities responsible for the taxi and private hire licensing regimes. The consultation document is open for comments until 22nd April 2019 and the Committee is asked to consider its contents and/or implications and any representations to be made by the Committee.

5. **EXCLUSION OF THE PUBLIC –**

To consider resolving:

That, taking into account the public interest test, the public be excluded from the meeting during the discussion of the undermentioned item to avoid the disclosure of exempt information within the paragraph of Schedule 12A to the Local Government Act, 1972 indicated against the item:

Agenda Item No.	Schedule 12A Para. No.	Category
6	1	Information relating to an individual

EXEMPT ITEM FOR DECISION

6. **RUSHMOOR COMMUNITY AWARD 2019 – (Pages 99 - 112)**

To consider the Head of Democracy, Strategy and Partnerships Exempt Report No. DSP1904 (copy attached) on the nominations received for the Community Award 2019.

PUBLIC PARTICIPATION AT MEETINGS

Members of the public may ask to speak at the meeting on any of the items on the agenda by writing to the Committee Administrator at the Council Offices, Farnborough by 5.00 pm three working days prior to the meeting.

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LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE

Meeting held on Monday, 28th January, 2019 at the Council Offices, Farnborough at 7.00 pm.

Voting Members

Cllr J.E. Woolley (Chairman)
Cllr Jacqui Vosper (Vice-Chairman)

Cllr Sue Carter
Cllr M.S. Choudhary
Cllr Liz Corps
Cllr A.H. Crawford
Cllr B. Jones
Cllr Marina Munro
Cllr M.D. Smith

29. **MINUTES**

The minutes of the meeting held on 26th November, 2018 were approved and agreed by the Chairman.

30. **SELECTION OF THE MAYOR AND DEPUTY MAYOR 2019/20**

The Chief Executive reported on the outcome of the selection process for the Mayor-Elect and the Deputy Mayor-Elect for 2019/20. The Chief Executive had contacted the appropriate Members on the seniority list and reported that Cllr Peter Frank Rust was the next Member able to accept the nomination for Deputy Mayor. Through normal progression, Cllr Sue Carter, currently Deputy Mayor, would progress to the position of Mayor for 2019/20.

The Committee **RECOMMENDED TO THE COUNCIL** that:

- (i) Cllr Sue Carter be appointed as Mayor-Elect for the 2019/20 Municipal Year; and
- (ii) Cllr Peter Frank Rust be appointed as Deputy Mayor-Elect for the 2019/20 Municipal Year.

31. **INTERNAL AUDIT UPDATE**

The Committee considered the Audit Manager's Report No. AUD1901, which described the work carried out by Internal Audit for quarter 3 and the proposed work to be delivered for quarter 4.

Members were advised that the following audit work had been carried out in quarter 3:

- Council depot
- Transparency Code follow-up

It was noted that there had been a delay in some of the audits carried out by the contract auditors due to two officers being on long periods of sickness. There had been an assurance from the senior auditor at Wokingham Borough Council that all the audits required would be completed by the end of March, as per the contract.

The Committee was advised that the following work was expected to be delivered in quarter 4, subject to change due to the changing needs of the organisation or resource availability:

- Contract management
- Corporate governance
- Benefits
- Recovery
- Sales ledger
- Purchase of property follow-up
- Card payments follow-up
- Contract letting and tendering follow-up
- IT portable equipment follow-up
- Planning applications
- Disabled Facilities Grant
- Capital Programme Management
- Risk management

During discussion, Members referred to the audit findings on the Depot and the lessons to be learned going forward. Following a question, the Chief Executive undertook to provide cost/benefit analysis information to the Committee.

RESOLVED: That

- (i) the audit work carried out in quarter 3 be noted;
- (ii) the update to the expected deliverables for quarter 4 be noted; and
- (iii) the expected deliverables for quarter 4 be endorsed.

32. **EXTERNAL AUDIT PLAN**

The Chairman welcomed Justine Thorpe (Audit Manager, Ernst & Young) to the meeting. The Committee received a copy of Ernst & Young's Audit Plan for the 2017/18 audit, which provided a basis on which to review the proposed approach and scope for the audit in accordance with the requirements of the Local Audit and Accountability Act 2014, the National Audit Office's 2015 Code of Audit Practice, the

Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA) Ltd, auditing standards and other professional requirements.

The Audit Plan summarised the auditor's initial assessment of the key risks driving the development of an effective audit for the Council and outlined the planned audit strategy in response to those risks. It was noted that the Audit Plan would cover the work that was planned to provide the Council with:

- an audit opinion on whether the financial statements gave a true and fair view of the financial position as at 31st March 2019 and of the income and expenditure for the year then ended; and
- a conclusion on the Council's arrangements to secure economy, efficiency and effectiveness.

The audit would also take into account several key inputs, including:

- strategic, operational and financial risks relevant to the financial statements;
- developments in financial reporting and auditing standards;
- the quality of systems and processes;
- changes in the business and regulatory environment; and
- management's views on all of these inputs.

During discussion, the Executive Head of Finance and Audit Manager of Ernst & Young answered questions regarding the valuation of land and buildings, depreciation of assets, the budget strategy and budget savings and income generation.

RESOLVED: That the Audit Planning report by Ernst & Young for the year ended 31st March 2019 be noted.

33. **CERTIFICATION OF CLAIMS AND RETURNS ANNUAL REPORT**

The Committee received the external auditor's report on housing benefit subsidy certification work for the Council's 2017-18 housing benefit claim.

It was noted that the housing benefits subsidy claim with a total value of £35,785,954 had been checked and certified. Ernst & Young had not had to amend the Council's claim. The certification fee for the 2017-18 housing benefit subsidy claim was £8,652.

From 2018-19 onwards the Council would be responsible for appointing its own reporting accountant to undertake the certification of the housing benefit subsidy claim in accordance with the Housing Benefit Assurance Process requirements that had been established by the Department for Work and Pensions. The Council had not appointed Ernst & Young as its reporting accountant from 2018-19.

RESOLVED: That Ernst & Young's report on housing benefit subsidy certification work for the 2017-18 housing benefit claim be noted.

34. **TREASURY MANAGEMENT AND INVESTMENT STRATEGY 2019/20**

The Committee considered the Executive Head of Finance's Report No. FIN1905, which set out the proposed Treasury Management Strategy and Investment Strategy for 2019/20, including the borrowing and investment strategies and treasury management indicators for capital finance for 2019/20 and the Minimum Revenue Provision Statement.

It was noted that CIPFA had conducted reviews of the Prudential Code and the Treasury Management Code of Practice in 2017 and that the Ministry of Housing, Communities and Local Government had also issued revised guidance on Local Government Investment. The Treasury Management Strategy Statement for 2019/20 and the Investment Strategy had been prepared in accordance with the new guidance.

Arlingclose advice continued to indicate that the Council should diversify investment risk by spreading smaller amounts over an increasing number of counterparties wherever possible. The Council was progressively incurring further borrowing and Arlingclose had advised that, in the circumstances of some current investments reaching their maturity date, the Council should replace them with long-term pooled funds. This strategy allowed for the maintained level of principal sums to be invested during a period when borrowing was increasing.

The Committee noted that the Council had incurred prudential code borrowing in 2017/18 in the sum of £5.89 million in relation to its capital expenditure. Further borrowing to support the financing of the Council's approved Capital Programme for the year 2018/19 would also be required. The Council would commence the 2019/20 financial year in a position where investment holdings continued to remain significant (although less than in previous financial years) but it also carried some accumulating debt. There would be an inevitable requirement to incur some further borrowing to service capital expenditure in future years.

It was advised that careful observation of the "gross debt v capital financing requirement" indicator would need to be undertaken progressively throughout the financial year. Where a material change to the proposed strategies during the year was required, a revised strategy would be presented to the Council before the change was implemented.

During discussion, Members raised the question about Arlingclose being invited to brief the Committee. It was agreed that this would be actioned as a briefing seminar for all Members. Questions were also raised regarding the valuation of commercial properties, which were answered by the Executive Head of Finance.

RESOLVED: That:

- (i) the Cabinet be recommended to approve

- (a) the Treasury Management Strategy and Annual Borrowing Strategy as set out in Appendix A to the Executive Head of Finance's Report No. FIN1905;
 - (b) the Annual Investment Strategy, as set out in Appendix B; and
 - (c) the Minimum Revenue Position Statement, as set out in Appendix C; and
- (ii) an all Member seminar be organised on the role and work of Arlingclose in due course.

The meeting closed at 8.17 pm.

CLLR J.E. WOOLLEY (CHAIRMAN)

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LICENSING, AUDIT & GENERAL
PURPOSES
25 MARCH 2019

EXECUTIVE DIRECTOR
(CUSTOMERS, DIGITAL AND
RUSHMOOR 2020)
REPORT NO: ED1904

PAY POLICY STATEMENT

SUMMARY AND RECOMMENDATIONS:

SUMMARY:

Under the Localism Act 2011, the Council is required to consider and approve a pay policy statement for the financial year. This report seeks approval for a statement covering 2019-20.

RECOMMENDATION:

That the Council be recommended to agree the Pay Policy Statement for 2019/20

1. BACKGROUND & INTRODUCTION

- 1.1 Under the Localism Act 2011, the Council is required to consider and approve a pay policy statement for the financial year. The Council's pay policy statement for 2019-20 is set out in Appendix A.
- 1.2 The Act sets out a clear expression of the Government's desire that taxpayers can access information about how public money is spent on their behalf. It translates this into a requirement for improved transparency over both senior council officers pay and that of the lowest paid employees. To support this, the Act requires publication of an annual pay policy statement, which must be agreed by the Council.
- 1.3 The Act sets out specific information that must be included in the Pay Policy Statement as follows:
 - the pay framework, level and elements of remuneration for Chief Officers
 - the pay framework and remuneration of the 'lowest paid' employees
 - the relationship between the remuneration of the Chief Officer and other officers
 - other policies relating to specific aspects and elements of remuneration such as pay increases, other allowances or payments, pension and termination payments.

2. DETAILS OF THE STATEMENT

- 2.1 The Pay Policy Statement contains two main components. It sets out the framework within which pay is determined in Rushmoor Borough Council and

it provides an analysis comparing the remuneration of the Chief Executive with other employees of the authority.

- 2.2 The comparisons included within the paper, look at the ratio between the Chief Executive and the full time equivalent salary for a permanent member of staff employed in the lowest grade within the structure. The ratio for 2019/20 is 6.7:1, this is a small change on the previous year's ratio of 7:1. For members information the pay policy statement for 2018/19 is attached for comparison purposes at Appendix B.
- 2.3 The second ratio included within the analysis, looks at the relationship between the median remuneration of all staff compared to the Chief Executive. There has been no change to this ratio since the last statement and it remains at 3.8:1.

BACKGROUND DOCUMENTS:

Communities and Local Government Openness and Accountability in Local Pay: Guidance under Section 40 of the Localism Act
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/59562/091042.pdf

Communities and Local Government Openness and Accountability in Local Pay: Guidance under Section 40 of the Localism Act Supplementary Guidance
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85886/Final_Supplementary_Pay_Accountability_Guidance_20_Feb.pdf

APPENDICES

Appendix A: Pay Policy Statement 2019/20

Appendix B: Pay Policy Statement 2018/19

CONTACT DETAILS:

Report Author:

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Executive Director:

Karen Edwards / karen.edwards@rushmoor.gov.uk 01252 39880

Rushmoor Borough Council **Pay Policy Statement for the Financial Year 2019-20**

Purpose

The purpose of this pay policy statement is to set out Rushmoor Borough Council's (RBC's) policies relating to the pay of its workforce for the financial year 2019-20, in particular: -

- a) the remuneration of its Chief Officers
- b) the remuneration of its "lowest paid employees"
- c) the relationship between
 - the remuneration of its Chief Officers
 - the remuneration of its employees who are not Chief Officers

Definitions

For the purpose of this pay policy statement, the following definitions will apply: -

"Chief Officer" refers to the following roles within RBC: -

- Chief Executive, as Head of Paid Service*
- Executive Directors
- Heads of Service

The **"lowest paid employees"** refers to permanent or fixed-term staff employed at Grade 1 of the pay scale. Grade 1 is the lowest grade.

An **"employee who is not a Chief Officer"** refers to all permanent or fixed-term staff who are not within the "Chief Officer" group above, including the "lowest paid permanent employees" i.e. staff on Grade 1.

Remuneration of the "lowest paid employees" and "all other employees who are not Chief Officers"

Pay framework

Pay for the "lowest paid employees" and "all other employees who are not Chief Officers" is determined by the National Joint Council for Local Government Services and in line with the council's Pay and Reward Policy.

Not included in the definitions referred to above, there is a small and fluctuating number of 'casual' staff, some of whom receive lower salaries in accordance with minimum wage legislation.

The employment of casual staff recognises the need to have a small team of trained and available workers who can be deployed at short notice to assist with seasonal and emergency requirements. This approach enables the organisation to have an efficient

and economic response to workload demands but without the need to incur unnecessary costs or to rely upon employment agencies. The use of casual contracts is regularly reviewed and staff engaged in this way are encouraged to apply for permanent roles when they become available.

The only other group employed by the Council who are excluded from the pay comparison data are apprentices. The apprentices are employed for a designated period during which time they are provided with on and off job training alongside the opportunity to gain valuable experience within a working environment. For this reason, the salary comparison would not be relevant.

The Pay and Reward Policy was implemented in April 2007 in line with National guidance, with the grade for each role being determined by a consistent job evaluation process. This followed a national requirement for all Local Authorities, and a number of other public sector employers, to review their pay and grading frameworks to ensure fair and consistent practice for different groups of workers with the same employer. The NJC framework for Job Evaluation was up-dated during 2013 and appropriate revisions made to the procedure for collecting data for evaluation to streamline the process and assist with pay comparability within Rushmoor Borough Council.

The Council's grading structure is based on the NJC terms and conditions using the national spinal column points with the addition of a number of spinal column points at the top of the scale. There are 10 grades (1 – 7, Head of Service, Director and Chief Executive) in the pay framework, grade 1 being the lowest and grade 7 the highest (for those below Chief Officer). Each employee will be on one of the 10 grades based on the job evaluation of their role and the grading structure has been in place since 1998.

Each grade has a number of incremental steps and employees can progress along the salary range to the maximum of their grade, subject to assessment of their performance.

Pay awards for those staff up to and including Grade 7 are determined directly from the negotiations held between the Local Government Employers and the recognised Trades Unions. Since the implementation of the Council's pay framework, the same percentage award has been applied to Chief Officers.

It should be noted that on 3rd September 2013, Cabinet made a decision to adopt the Foundation Living Wage Scheme, and hence the minimum wage in Rushmoor has reflected this. From 1st April 2019, the NJC pay rates will align with the Living Wage and hence this adjustment will no longer be necessary.

The analysis used for this report draws upon the pay rates as at 1st April 2019.

The remuneration of the "lowest paid employees" includes the following elements: -

- Salary

- Any allowance or other contractual payments in connection with their role

See below for comments on each element

Salary

Each “lowest paid permanent employee” is paid within the salary range for Grade 1.

Details of the Council’s grades and salary ranges are available on the website.

The normal starting salary for new employees will be at the entry point for the grade. However, at the appointing managers discretion, based on their assessment of skills and experience employees may commence at a higher grade point.

Other payments and allowances

Any allowance or other payments will only be made to staff in connection with their role or the patterns of hours they work and must be in accordance with the Pay and Reward policy. In a small number of roles where significant recruitment difficulties are experienced, a market supplement is paid. Market supplements are reviewed annually to ensure they are still required.

Further details of such allowances and payments are available on request.

Progression within the salary scale

The Council has a performance management and development review scheme in place. This embraces a number of elements including a joint review of performance, sharing organisational/team goals and agreeing future plans. Progression through the incremental scale appropriate to the grade is dependent upon performance being assessed as satisfactory by the staff member’s line manager.

In exceptional cases where staff members have consistently delivered exceptional performance, more than one incremental point may be awarded, with the approval of the Head of Service.

Pension

All Rushmoor Borough Council staff are eligible to join the Local Government Pension Scheme. There is automatic enrolment procedure in place to encourage membership of the scheme.

Severance Payments

Any severance payments will be in line with the Council’s adopted policies on Organisational Change and MARS (Mutually Agreed Resignation Scheme). Further details are available on request.

Remuneration of Chief Officers

Pay framework

“Chief Officers” refers to the Chief Executive, Executive Directors and Heads of Service.

This group of “Chief Officers” are paid on locally determined pay scales outside of the NJC agreement. These pay scales were created by extending the NJC spinal column points, and since the implementation of the Pay and Reward policy, these Chief Officers have received the same annual percentage pay award as all other employees within the Council.

Salary

Salaries of the Council’s Chief Officers are published on the council’s website.

The normal starting salary for new employees will be at the entry point for the grade., However, at the appointing managers discretion, based on their assessment of skills and experience employees may commence at a higher grade point.

Other allowances or payments

Any allowance or other payments will only be made to employees in connection with their role or the patterns of hours they work and must be in accordance with the Council’s Pay and Reward policy.

The Chief Executive is appointed by the Council to act as the Returning Officer at the election of councillors for the Borough and as acting Returning Officer at Parliamentary Elections. The additional fees associated with these functions will be paid in accordance with those set nationally or locally through the Hampshire and Isle of Wight Elections Fees Working Party.

Within the fees structure for elections, provision is made for payments to staff for specific duties. These payments are also made in accordance with nationally set rates or locally through the Hampshire and Isle of Wight Election Fees Working Party. Details are available on request.

Further details of such allowances and payments are available on request.

Progression within the salary scale

Progression through the incremental scale appropriate to the grade is dependent upon performance being judged as satisfactory or higher at the end of the review year.

Pension

All employees are eligible to join the Local Government Pension Scheme but the value of these benefits has been excluded from the figures used for pay comparison purposes.

Severance Payments

Any severance payments will be in line with the Council's policy for Organisational Change or MARS scheme and further details are available on request.

The relationship between remuneration of highest and lowest paid employees of the Council.

There are a number of different ways of presenting this information to provide a rounded picture of pay comparisons within the organisation.

The lowest, median and highest salaries as at 1st April 2019 are as follows:

Lowest:	£18,065
Median	£32,029
Highest	£120,915

By simply taking the salary of those permanently appointed employees paid on the lowest grade of the council's pay structure and comparing this with the Chief Executive a pay ratio of **1:6.7** emerges. This is a slight change on the previous year's ratio, which was **1: 7**

The Hutton Report (2010) that looked at the relationship between pay levels in the public sector recommended that organisations should comply with a maximum pay multiple of **1:20**. Rushmoor is well below that ratio.

An alternative approach would be to compare the Chief Executive's salary against the median salary. This equates to a ratio of **1:3.8**. There is no change to this ratio, which has remained the same as 2018/19.

Conclusion

There has been no significant movement over the last 12 months. These results indicate that there is no cause for concern regarding the ratio between the pay rates for staff and the Chief Executive.

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Rushmoor Borough Council **Pay Policy Statement for the Financial Year 2018-2019**

Purpose

The purpose of this pay policy statement is to set out Rushmoor Borough Council's (RBC's) policies relating to the pay of its workforce for the financial year 2018-19, in particular: -

- a) the remuneration of its Chief Officers
- b) the remuneration of its "lowest paid employees"
- c) the relationship between
 - the remuneration of its Chief Officers
 - the remuneration of its employees who are not Chief Officers

Data on salaries, job roles and statistics contained within the statement are as at 1st April 2018.

Definitions

For the purpose of this pay policy statement, the following definitions will apply: -

"Chief Officer" refers to the following roles within RBC: -

- Chief Executive, as Head of Paid Service*
- Corporate Directors
- Heads of Service

The **"lowest paid employees"** refers to permanent or fixed-term staff employed at Grade 1 of the pay scale. Grade 1 is the lowest grade.

An **"employee who is not a Chief Officer"** refers to all permanent or fixed-term staff who are not within the "Chief Officer" group above, including the "lowest paid permanent employees" i.e. staff on Grade 1.

Remuneration of the "lowest paid employees" and "all other employees who are not Chief Officers"

Pay framework

Pay for the "lowest paid employees" and "all other employees who are not Chief Officers" is determined by the National Joint Council for Local Government Services and in line with the council's Pay and Reward Policy.

Not included in the definitions referred to above, there is a small and fluctuating number of 'casual' staff, some of whom receive lower salaries in accordance with minimum wage legislation.

The employment of casual staff recognises the need to have a small team of trained and available workers who can be deployed at short notice to assist with seasonal and emergency requirements. This approach enables the organisation to have an efficient and economic response to workload demands but without the need to incur unnecessary costs or to rely upon employment agencies. The use of casual contracts is regularly reviewed and staff engaged in this way are encouraged to apply for permanent roles when they become available.

The only other group employed by the Council who are excluded from the pay comparison data are apprentices. The apprentices are employed for a designated period during which time they are provided with on and off job training alongside the opportunity to gain valuable experience within a working environment. For this reason, the salary comparison would not be relevant.

The Pay and Reward Policy was implemented in April 2007 in line with National guidance, with the grade for each role being determined by a consistent job evaluation process. This followed a national requirement for all Local Authorities, and a number of other public sector employers, to review their pay and grading frameworks to ensure fair and consistent practice for different groups of workers with the same employer. The NJC framework for Job Evaluation was up-dated during 2013 and appropriate revisions made to the procedure for collecting data for evaluation to streamline the process and assist with pay comparability within Rushmoor Borough Council.

The Council's grading structure is based on the NJC terms and conditions using the national spinal column points with the addition of a number of spinal column points at the top of the scale. There are 10 grades (1 – 7, Head of Service, Director and Chief Executive) in the pay framework, grade 1 being the lowest and grade 7 the highest (for those below Chief Officer). Each employee will be on one of the 10 grades based on the job evaluation of their role and the grading structure has been in place since 1998.

Each grade has a number of incremental steps and employees can progress along the salary range to the maximum of their grade, subject to assessment of their performance.

Pay awards for those staff up to and including Grade 7 are determined directly from the negotiations held between the Local Government Employers and the recognised Trades Unions. Since the implementation of the Council's pay framework, the same percentage award has been applied to Chief Officers.

It should be noted that on 3rd September 2013, Cabinet made a decision to adopt the Foundation Living Wage Scheme, and hence the minimum wage in Rushmoor has reflected this. From 1st April 2019, the NJC pay rates will align with the Living Wage and hence this adjustment will no longer be necessary.

The analysis used for this report draws upon the pay rates as at 1st April 2018.

The remuneration of the “lowest paid employees” includes the following elements: -

- Salary
- Any allowance or other contractual payments in connection with their role

See below for comments on each element

Salary

Each “lowest paid permanent employee” is paid within the salary range for Grade 1.

Details of the Council’s grades and salary ranges are available on the website.

The normal starting salary for new employees will be at the entry point for the grade. However, at the appointing managers discretion, based on their assessment of skills and experience employees may commence at a higher grade point.

Other payments and allowances

Any allowance or other payments will only be made to staff in connection with their role or the patterns of hours they work and must be in accordance with the Pay and Reward policy. In a small number of roles where significant recruitment difficulties are experienced, a market supplement is paid. Market supplements are reviewed annually to ensure they are still required.

Further details of such allowances and payments are available on request.

Progression within the salary scale

The Council has a performance management and development review scheme in place. This embraces a number of elements including a joint review of performance, sharing organisational/team goals and agreeing future plans. Progression through the incremental scale appropriate to the grade is dependent upon performance being assessed as satisfactory by the staff member’s line manager.

In exceptional cases where staff members have consistently delivered exceptional performance, more than one incremental point may be awarded, with the approval of the Head of Service.

Pension

All Rushmoor Borough Council staff are eligible to join the Local Government Pension Scheme. There is automatic enrolment procedure in place to encourage membership of the scheme.

Severance Payments

Any severance payments will be in line with the Council's adopted policies on Organisational Change and MARS (Mutually Agreed Resignation Scheme). Further details are available on request.

Remuneration of Chief Officers

Pay framework

"Chief Officers" refers to the Chief Executive, Corporate Directors and Heads of Service.

This group of "Chief Officers" are paid on locally determined pay scales outside of the NJC agreement. These pay scales were created by extending the NJC spinal column points, and since the implementation of the Pay and Reward policy, these Chief Officers have received the same annual percentage pay award as all other employees within the Council.

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Other allowances or payments

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The Chief Executive is appointed by the Council to act as the Returning Officer at the election of councillors for the Borough and as acting Returning Officer at Parliamentary Elections. The additional fees associated with these functions will be paid in accordance with those set nationally or locally through the Hampshire and Isle of Wight Elections Fees Working Party.

Within the fees structure for elections, provision is made for payments to staff for specific duties. These payments are also made in accordance with nationally set rates or locally through the Hampshire and Isle of Wight Election Fees Working Party. Details are available on request.

Further details of such allowances and payments are available on request.

Progression within the salary scale

Progression through the incremental scale appropriate to the grade is dependent upon performance being judged as satisfactory or higher at the end of the review year.

Pension

All employees are eligible to join the Local Government Pension Scheme but the value of these benefits has been excluded from the figures used for pay comparison purposes.

Severance Payments

Any severance payments will be in line with the Council's policy for Organisational Change or MARS scheme and further details are available on request.

The relationship between remuneration of highest and lowest paid employees of the Council.

There are a number of different ways of presenting this information to provide a rounded picture of pay comparisons within the organisation.

The lowest, median and highest salaries as at 1st April 2018 were as follows:

Lowest:	£17,007
Median	£31,401
Highest	£118,626

By simply taking the salary of those permanently appointed employees paid on the lowest grade of the council's pay structure and comparing this with the Chief Executive a pay ratio of **1:7** emerges. This is the same ratio as for the last report in 2017-18.

The Hutton Report (2010) that looked at the relationship between pay levels in the public sector recommended that organisations should comply with a maximum pay multiple of **1:20**. Rushmoor is well below that ratio.

An alternative approach would be to compare the Chief Executive's salary against the median salary. This equates to a ratio of **1:3.8** which is the same ratio as last year.

There has been no significant movement over the last 12 months. These results indicate that there is no cause for concern regarding the ratio between the pay rates for staff and the Chief Executive.

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LICENSING, AUDIT AND GENERAL PURPOSES COMMITTEE
25TH MARCH 2019

AUDIT MANAGER
REPORT NO. AUD1903

INTERNAL AUDIT – AUDIT UPDATE

SUMMARY:

This report describes the work carried out by Internal Audit for quarter 4.

RECOMMENDATION:

Members are requested to note the audit work carried out in Q4 2018/19, acknowledging possible slippage into Q1 2019/20

1 INTRODUCTION

1.1 This report is to provide Members with:

- An overview of the work completed by Internal Audit to date for Q4 2018/19.
- A schedule of work expected to be delivered Q4 2018/19 and Q1 2019/20.

2 AUDIT WORK – Q4 18/19

2.1 The following audit work has been carried out within quarter 4:

Work	Status
Audit findings – Appendix A of this report	
IT access controls	This audit was carried out by the contract auditors. A substantial assurance opinion has been given to this area. Findings are detailed within Appendix A.
Weekly refuse and recycling contract	This audit was carried out by the contract auditors. A substantial assurance opinion has been given to this area. Findings are detailed within Appendix A.
Benefits	This audit was carried out by the contract auditors. A substantial assurance opinion has been given to this area. Findings are detailed within Appendix A.
Sales Ledger	This audit was carried out by the contract auditors. A substantial assurance opinion has been given to this area.

	Findings are detailed within Appendix A.
Work	Status
Recovery	This audit was carried out by the contract auditors. A reasonable assurance opinion has been given to this area. Findings are detailed within Appendix A.
Card payments follow up	A follow up was carried out on the recommendations made from the card payment review carried out in 2017/18. The findings from the follow up has changed the assurance opinion within this area, from reasonable to substantial assurance . Findings are detailed within Appendix A.
Parking Machine Income follow up	A follow up was carried out on the recommendations made from the parking machine income audit carried out in 2017/18. The findings from the follow up has changed the assurance opinion within this area, from reasonable to substantial assurance . Findings are detailed within Appendix A.
Items for the May Committee	
Corporate Governance	Testing is currently underway and the findings will be communicated at the Committee meeting in May.
Purchase of property follow up	
Contract Letting & Tendering follow up	
Portable IT Equipment follow up	
Planning Applications	
Risk Management	
Awaiting information	
Contaminated water review	This review has been completed but the report has yet to be issued, as it will be done in conjunction with the Contaminated soil review.
Contaminated soil review	Currently waiting on information to be provided by the contractors.

2.2 *Other deliverables:*

The audit risk universe has been updated to enable the development of the Audit plan for 2019/20. The audit plan is being communicated to this Committee within report AUD 19/02

3 Expected deliverables for Q4 2018/19 and Q1 2019/20

3.1 As previously reported to the committee, a significant element of the 2018/19 Audit Plan was due to be delivered in quarter 4. Whilst there has been progress against the plan since the last update, there are a number of audits that may not be completed in the current financial year. The work was expected to be delivered in Q4 2018/19, but may not be completed until April or May 2019. The outstanding audits are detailed within the table below. As with the previous quarter, these audits can be subject to change due to the changing needs of the organisation or resource availability. An update will be provided at the May meeting.

Service	Audit/ follow up/descriptor	Expected
Finance	Contract Management - <i>A review of how contracts are monitored within the Council to ensure they are delivering the outcomes we require.</i>	Q4 2018/19 Q1 2019/20
CLT	Corporate Governance - <i>Overview of corporate governance arrangements within the Council against CIPFA/SOLACE guidance.</i>	
Legal	Purchase of property follow up - <i>A follow up on the recommendations made within the audit carried out in 2017</i>	
Finance	Contract Letting & Tendering follow up - <i>A follow up on the recommendations made within the audit carried out in 2017</i>	
IT	Portable IT Equipment follow up – <i>A follow up on the recommendations made within the audit carried out in 2018.</i>	
Planning	Planning Applications - <i>A review of adherence to statutory requirements and processes for planning applications</i>	
Housing	Disabled Facilities Grant - <i>A review of processes for granting DFGs and process for the rotation of suppliers.</i>	
Finance	Capital Programme Management - <i>A review of the arrangements in place to manage the capital programme and the projects included.</i>	
CLT	Risk Management - <i>A review of the risk management process and system in place. This is an area that was highlighted within the Annual Governance Statement and by External Audit as having deficiencies.</i>	

3.2 In light of the position outlined above, the 2019/20 Audit Plan will now be presented to the committee in May 2019.

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HEAD OF SERVICE: David Stanley, Executive Head of Financial Services

References: *Internal Audit – Audit Plan* report, presented to the Committee on the 29th January 2018

<https://democracy.rushmoor.gov.uk/ieListDocuments.aspx?CId=166&MIId=459&Ver=4>

Internal Audit – Audit update report, presented to the Committee on the 28th January 2019

<https://democracy.rushmoor.gov.uk/ieListDocuments.aspx?CId=166&MIId=659&Ver=4>

AUDIT FINDINGS ON SEVEN ITEMS: IT ACCESS CONTROLS, WEEKLY REFUSE AND RECYCLING CONTRACT, BENEFITS, SALES LEDGER, RECOVERY, CARD PAYMENTS FOLLOW UP AND PARKING MACHINE INCOME FOLLOW UP

Audit Title 1	IT access controls		
Year of Audit	2018/19		
Assurance given	<i>Substantial – Key controls designed to achieve the system/function/process objectives, are in place. There are opportunities to enhance/strengthen these controls.</i>		
Overview of area	<p>This audit review focused on evaluating controls in place at an application/ system level. Although the Council's ICT Service provides overall governance and support, it is the responsibility of administrators of individual applications/ systems to ensure that it is managed securely and safely.</p> <p>In total, there are 37 applications operated by Council services. Each application has its own administrator either within the corporate IT team (28) or within the service (9), who is responsible for granting or revoking user access, ensuring adequate segregation of duties, and maintaining its overall security.</p>		
Priority	Key findings	Management response and agreed action	Action by who and when
Medium	<p>Integra Patch Management At the time of the audit, resources are not available to action the patches issued for the Integra 2 finance system. They are approximately 12 months outstanding (c.50 patches)</p> <p>Risk: <i>The key finance system is not operating with the most up to date versions and security upgrades.</i></p>	<p>On 2/11/2018 the IT team and the system supplier carried out system maintenance to bring the test system up to date. However, the Finance team (with the exception of Revenues) have been unable to complete testing due to other work pressures.</p> <p>The Head of IT is to discuss a resolution with newly appointed Executive Head of Finance early in the new year.</p>	<p>David Stanley, Executive Head of Finance</p> <p>31st March 2019</p>

Medium	<p>Regular review of access As identified in the 2017/18 FMS internal audit, the 2017/18 Cyber Security report and with the exceptions highlighted in this audit, there is no regular review of systems access for officers to verify that it is still required and appropriate. There is no requirement for an annual access check by the services for applications/systems.</p> <p>Risk: <i>Users may be left with inappropriate access to systems, in particular for the major systems, e.g. Integra, UNI-Form, etc.</i></p>	Head of ICT to review system controls with the respective system administrators.	Nick Harding, Head of ICT 31 st March 2019
Low	<p>Unauthorised access monitor There is no formal monitoring of attempted access, in particular for those systems holding sensitive data or where payments may be possible.</p> <p>Risk: <i>Unauthorised access attempts are not detected for suitable action.</i></p>	The respective system administrators to review the available intrusion detection options available from software vendors.	Nick Harding, Head of ICT 30 th June 2019
High	<p>360Pay System Card refund payments on the main council tax / business rates payment system do not have to be made back to the originating card number and there is no payment limit.</p> <p>Risk: <i>Officers could refund to a personal card number and values are not limited / can be for more than the original transaction value. (Capita may be able to add an additional control).</i></p>	IT Network Administration to discuss with the software vendor (Capita) on available options.	Nigel Swan, IT Technical Services Manager 31 st January 2019
Medium	<p>Bank Account changes - Integra Monthly checks by Finance on bank account changes were a couple of months outstanding at</p>	A retrospective internal check is currently undertaken to provide assurance that there is a separation	David Stanley, Executive Head of Finance

	<p>the time of the audit, and the sample to check has not been specifically stipulated.</p> <p>Risk: <i>This good control is not being as effective as it could be.</i></p>	<p>of duties within the Payments team when bank account details are amended on supplier records.</p> <p>The key controls around supplier bank account changes are working effectively, and it is not considered a priority to undertake a further independent check at this stage as it is considered a low risk.</p> <p>This will be kept under review.</p>	
Medium	<p>Cyber Security Staff are required to complete an IT security on-line course once every 12 months, but there is no on-going routine for issuing regular staff e-mails of current breach attempts, recent cyber-security examples, what to do if scenarios, etc, to help maintain awareness.</p> <p>Risk: <i>With a constant cyber-security risk, staff are not being regularly reminded to be aware and vigilant.</i></p>	<p>More regular staff-hub awareness items around cyber security are to be developed.</p>	<p>Nick Harding, Head of ICT</p> <p>31st March 2019</p>
Low	<p>Single Sign-In There is a corporate strategy / roll-out to introduce single-sign / integrated log-on for systems were possible, saving unnecessary password / systems management. This has not been introduced for all systems, e.g. iWorld.</p> <p>Risk: <i>IT staff are disrupted for the administration of passwords, e.g. when forgotten, when a more efficient approach is available.</i></p>	<p>Existing legacy systems do not always support this functionality, however, the principle of single sign on (SSO) \ integrated logon will be included in future system specifications.</p>	<p>Nick Harding, Head of ICT</p> <p>On-going</p>

Priority key for way forwards	
High priority	A fundamental weakness in the system/area that puts the Authority at risk. To be addressed as a matter of urgency.
Medium priority	A moderate weakness within the system/area that leaves the system/area open to risk.
Low priority	A minor weakness in the system/area or a desirable improvement to the system/area.

Audit Title 2	Weekly refuse & recycling contract		
Year of Audit	2018/19		
Assurance given	Substantial – Key controls designed to achieve the system/function/process objectives, are in place. There are opportunities to enhance/strengthen these controls.		
Overview of area	<p>Serco were awarded and have provided the waste and recycling service on behalf of Rushmoor Borough Council (RBC) in early 2017, the competitive dialogue process having commenced in 2015. Prior to this the contract was managed from April 2002 by Serviceteam until their acquisition by Veolia.</p> <p>The contract was awarded based on a successful bid that offered both a competitive price and demonstrated both high quality and significant added value.</p>		
Priority	Key findings	Management response and agreed action	Action by who and when
Medium	<p>Documented Procedures There are no formally documented procedures relating to the management of the contract.</p> <p>Risk: <i>without fully documented and comprehensive procedures there is a risk that all key contract management tasks and checks may not be undertaken correctly should the experienced Contract Manager be absent or individual roles change.</i></p>	<p>An overview document will be drawn up detailing:</p> <ul style="list-style-type: none"> • Meeting timetable • Standard agenda items • KPI monitoring frequency • Etc. 	<p>Ruth Whaymand, Contracts Manager</p> <p>1st April 2019</p>
Medium	<p>Documented Procedures There are no formally documented procedures relating to the running of invoicing reports although the Senior Technical Officer does have hand</p>	Notes will be typed up.	<p>Ruth Whaymand, Contracts Manager</p>

	<p>written notes which she follows.</p> <p>Risk: <i>without fully documented and comprehensive procedures there is a risk that invoicing information may not be correct leading to inaccurate billing.</i></p>		1 st April 2019
Medium	<p>Confirmation of Insurance Cover There is no agreed mechanism in place to ensure that RBC receive a copy of the renewed insurance certificates.</p> <p>Risk: <i>RBC will not receive assurance that Serco have the appropriate insurance cover as outlined in the contract.</i></p>	<p>RBC are named as an interested part on Serco's insurance policy.</p> <p>Ruth Whaymand, Contracts Manager to add insurance certificate checks to the annual paperwork audit.</p>	<p>Ruth Whaymand, <i>Contracts Manager</i> and Morag McVey, <i>Payments and Insurance Manager</i></p> <p>1st April 2019</p>
Medium	<p>Contract Wording The contract has not been subject to review to ensure that all of the requirements of the new GDPR have been met.</p> <p>Risk: <i>Contract and supplier documentation may not be GDPR compliant.</i></p>	<p>The wording within the contract will be reviewed.</p>	<p>Catriona Herbert, <i>Corporate Legal Services Manager</i></p> <p>To fit with the GDPR project</p>
Medium	<p>Annual Monitoring Schedule Health and Safety monitoring activities are not scheduled formally for the year ahead.</p> <p>Risk: <i>Unless there is an agreed schedule of inspections there is a risk that the required number/type of inspections will not take place and RBC will be unable to satisfy themselves that Serco are meeting the required Health and Safety standards.</i></p>	<p>A schedule will be developed for all levels of inspection and will be followed.</p>	<p>Ruth Whaymand, <i>Contracts Manager</i></p> <p>1st April 2019</p>

Low	<p>BCP Distribution List The RBC Contracts Manager is not on the BCP distribution list.</p> <p><i>Risk: Unless the RBC Contracts Manager is on the BCP distribution list there is a risk that an updated copy will not be received as and when it is revised.</i></p>	Key RBC personnel will be added to the distribution list.	<p>Serco</p> <p>1st April 2019</p>
Low	<p>Roles and Responsibilities The RBC Communications Department and their Press Officer may not be clear of their responsibilities should the Serco BCP be instigated.</p> <p><i>Risk: The Serco BCP will be at risk of failure should all officers with designated responsibilities not be aware of their specific roles.</i></p>	Serco will brief RBC communications team on their responsibility should the Serco BCP be instigated.	<p>Helen Milward & Rob Noble from Serco</p> <p>1st June 2019</p>

Audit Title 3	Benefits		
Year of Audit	2018/19		
Assurance given	<i>Substantial - Key controls designed to achieve the system/function/process objectives are in place. There are opportunities to enhance/strengthen these controls.</i>		
Overview of area	<p>The benefits system is reviewed biennially, as agreed with the external auditors (Ernst & Young). The previous audit carried out in 2016/17 concluded that the system continues to operate effectively.</p> <p>The Revenues and Benefits team have been under-resourced for some time. It was found that this has generally not had an impact on the day-to-day work of the team, who are currently processing claims as they are received and have no backlog. The team members have been in their positions for a number of years and as such, they are highly experienced and the team works well together.</p> <p>The audit found that the system continues to operate effectively with sound controls in place. Benefit claims are correctly calculated and processed in a timely manner with a sound audit trail to support entitlement. In addition, security controls within the benefits module remain appropriate. Adequate controls are in place to support the BACS payment process.</p>		
Priority	Key findings	Management response and agreed action	Action by who and when
Medium	<p>Hard copy files which include customer's personal sensitive information are held in cabinets but these are not lockable. This risk is recognised within the corporate GDPR Risk Register.</p> <p>Risk <i>Employees who are not part of the benefits team have access to personal data and the council is left vulnerable to data breaches.</i></p>	<p>Access to this area is by electronic pass only. Archiving is on-going but live cases will remain albeit with reducing numbers, e.g. there will be a legacy of pensioner claims.</p> <p>We will ensure that staff are aware of the risk and the Executive Head of Finance (David Stanley) is currently discussing this issue with the council's DPO, and it is likely some urgent secure filing will be procured.</p>	<p>Dawn Menzies-Kelly, <i>Revenue & Benefits Manager</i></p> <p>31st May 2019</p>

Medium	<p>The routine of independent quality / performance checks has not been carried out on officers' work between September – December 2018 due to resources not being available.</p> <p>Risk <i>Benefit payment errors could be going unnoticed which could lead to a financial and reputational risk.</i></p>	<p>The monthly checks have recommenced since mid-January 2019. Three officers are sharing the workload for this and to catch up with the checks back to September 2018, missed previously.</p>	<p>Sam Fleming, <i>Revenue & Benefits – Claims Manager</i></p> <p>In place</p>
Low	<p>Testing identified that the 'Notes' for self-employed calculations on the iWorld system could be more thorough at times to ensure that all actions and reasons behind decisions are captured on a customer's file. This is to explain fully the basis of calculations including what amounts were added / not added and why.</p> <p>Risk <i>Other team members can be left uncertain as to what actions have been done and the basis of calculations applied.</i></p>	<p>An e-mail was sent by the Revenue and Benefits manager at the end of January 2019 as reminder to the team. Assessors have been told to use clearer notes as to how a Self-Employed income decision has been made and there is an expectation that all Benefit decisions will be fully detailed.</p>	<p>Sam Fleming, <i>Revenue & Benefits – Claims Manager</i></p> <p>In place</p>

Audit Title 4	Sales Ledger		
Year of Audit	2018/19		
Assurance given	<i>Substantial – Key controls are designed to achieve the system/function/process objectives, are in place. There are opportunities to enhance/strengthen these controls.</i>		
Overview of area	<p>Invoices totalling around £10.1 million were produced for a range of services in 2017/18 with the year to date (end of January 2019) figure standing at £7.8 million.</p> <p>Going forward, the aim is for payment at the point of contact to be introduced where practical in order to free up resources and prevent credit being given to customers or organisations where it is not necessary to do so. To this end, a high proportion of garden waste customers who do not pay by direct debit, now pay via another system, which has already reduced the number of invoices being raised.</p> <p>Currently there is a drive to reduce the number of invoices raised by targeting areas where it is felt payment could be taken at first point of contact. This more commercial approach to take payment at point of sale would reduce invoice numbers and reduce the risk of non-collection of debt.</p>		
Priority	Key findings	Management response and agreed action	Action by who and when
Medium	<p>Documented Procedures Documented procedures relating to the Sales Ledger function have not been subject to recent review and require update.</p> <p><i>Risk: Without up to date documented and comprehensive procedures there is a risk that not all key Sales Ledger tasks may be undertaken correctly should the experienced officers be absent or individual roles change.</i></p>	<p>Agreed</p> <p>There are currently documented procedures, which do need updating.</p>	<p>David May, <i>Principal Revenues and Benefits Officer</i></p> <p>End of May 2019</p>

Medium	<p>System Access Authorisation The requirement for the need for Head of Service authorisation for the addition of a user to the Sales Ledger module of Integra (which is often view-only) is considered an unnecessary control which does not mitigate any risk and also can cause delay in the process.</p> <p><i>Risk: There is unnecessary administration and may be a delay in granting access to the Sales Ledger module of Integra leading to staff being unable to fulfil their duties in a timely manner.</i></p>	<p>Agreed</p> <p>An e-mail will be issued to manager's network and CLT advising that authorisation forms will no longer be required but will need approval from the Principle Revenues and Benefits Officer for individuals to have access to Sales Ledger.</p>	<p>David May, <i>Principal Revenues and Benefits Officer</i></p> <p>March 2019</p>
Low	<p>Access Review – Sales Ledger Module (Linked to 2018/19 IT Systems Control audit) There is no formal regular review of Integra users to check if their access to the Sales Ledger module is still required.</p> <p><i>Risk: Staff whose current role no longer requires them to have access to the Sales Ledger module or staff who have left the authority may still have access to the system.</i></p>	<p>Agreed</p> <p>A review will now be carried out twice a year to ensure those officers still require access.</p>	<p>Cathrine Cleminson, <i>Local Taxation Officer</i></p> <p>April 2019</p>
Medium	<p>VAT Coding on Invoices a) Errors identified in VAT coding on invoices are only addressed and rectified if there is a financial implication. b) There is an absence of guidance for services in applying VAT, and zero and exempt supplies.</p> <p><i>Risk: Reporting requirements may not be met when Making Tax Digital is introduced, financial errors may result and staff may not learn from their coding errors.</i></p>	<p>Agreed</p> <p>We have discussed this with Executive Head of Finance and the Finance team will take the lead on this.</p>	<p>Alan Gregory, <i>Finance Manager</i></p> <p>TBC – live by October</p>

Medium	<p>Payment at First Point of Contact</p> <p>a) Despite a corporate drive for 'Pay at the Point of Order', invoices are still being raised by services in instances where it would be more cost effective and efficient to take payment at the first point of contact, e.g. AON parking permits and annual licences.</p> <p>b) There is no formal senior management monitoring of exceptions to this policy.</p> <p><i>Risk: Resources are not efficiently used and savings not achieved if opportunities for payment to be made at first point of contact rather than an invoice being raised are not identified by the services and taken.</i></p>	<p>Agreed</p> <p>A) We are continue to check all invoices being raised on a daily basis. However there is evidence that some managers are considering the need to raise an invoices.</p> <p>We are going to take a report to CLT on this review to update them and to ask for their cooperation with this policy.</p>	<p>David May, <i>Principal Revenues and Benefits Officer / Dawn Menzies-Kelly, Revenues and Benefits Manager</i></p> <p>May 2019</p>
Low	<p>Review of Periodical Payments</p> <p>A regular review of periodical payments, where rent relief is being given to voluntary organisations, is not being undertaken.</p> <p><i>Risk: If a review of periodical payments is not undertaken regularly, template details may not be updated should the amount of relief given change. As a result invoicing arrangements may be inaccurate and incorrect amounts may be credited on Integra.</i></p>	<p>Agreed</p> <p>A review of those organisation who are in receipt of rent relief will be undertaken</p>	<p>Cathrine Cleminson, <i>Local Taxation Officer</i></p> <p>June 2019</p>
Low	<p>Unreconciled Amount</p> <p>At the time of the audit there was an unreconciled and unresolved amount of £39 (linked to a Garden Waste transaction) but which has not impacted on any other reconciliation. This arose in June 2018 with over 1,500 transactions that month.</p> <p><i>Risk: Unless the discrepancy is resolved there is a risk of accounting errors and inaccurate reporting.</i></p>	<p>Agreed</p> <p>This matter will be referred to Capita as all possible avenues have been explored in internally</p>	<p>David May, <i>Principal Revenues and Benefits Officer</i></p> <p>February 2019</p>

Audit Title 5	Recovery		
Year of Audit	2018/19		
Assurance given	<i>Reasonable – Basic controls designed to achieve the system/function/process objectives, are in place. Improvements are required if key controls are to be established.</i>		
Overview of area	<p>The Recovery system is reviewed biennially. This covers the system and processes in place for the recovery of overdue council tax, business rates, housing benefit overpayments and sundry debtors.</p> <p>The average monthly collection rates for Council Tax and NNDR for 2018/19 (up to January 2019) are comparable with the previous year. In addition, the Liability Order stage debt is reducing each month for both Council Tax and NNDR, which also encompasses debts from previous years.</p> <p>The Sundry Debtors collection for current year invoices matched that of 2017/18 (up to December 2018) albeit the number and value of previous years older debts has increased by c.25%. For HB Overpayments, comparing the April 2018 position to December 2018, it is good to note that the debt value and number of accounts have decreased, and of these most are being managed, albeit there is a legacy of older accounts that require review.</p>		
Priority	Key findings	Management response and agreed action	Action by who and when
Medium	<p>Case notes are not always applied to an account each time it is reviewed, even if no action has been taken.</p> <p>Risk: <i>Without applying case notes on each review, there is no record to identify that the account is being monitored. This is important to evidence robust account monitoring and would assist quality checks on team performance.</i></p>	<p>Agreed. We have sent an email to staff as follows:</p> <ul style="list-style-type: none"> • Make sure that you put notes on every account that you action. • Make thorough notes and do not use unusual abbreviations. • When you have a diary note, please note the account that you have reviewed it, even if no action is required now. • If you are monitoring an account that you have the details recorded 	<p>Karen Parker, <i>Senior Local Taxation Officer</i></p> <p>28th February 2019</p>

		<p>somewhere other than diary notes, make sure that you include the location where you have recorded this is in the notes.</p>	
Low	<p>Case notes were not always thorough and detailed, with unfamiliar abbreviations sometimes used.</p> <p>Risk: <i>If case notes are not clear and transparent as to the steps undertaken when actioned, it is unclear for future reference as to what stage the account is at and the next appropriate action needed.</i></p>	<p>Agreed. Covered by above email.</p>	<p>Karen Parker, <i>Senior Local Taxation Officer</i></p> <p>28th February 2019</p>
Medium	<p>Debt collection processes were not being consistently applied, with next stages recorded not always being actioned.</p> <p>Risk: <i>Accounts will fall behind and possibly into arrears should the appropriate next recovery steps not be promptly taken by team members.</i></p>	<p>Agreed. The Revenues and Benefits Management are incorporating Performance Management as a priority in their service work plan for 2019/20. This will involve more detailed quality checking to make sure that the processes are being followed and action taken, to ensure that staff do the work as it should be done.</p>	<p>Dawn Menzies-Kelly, <i>Revenues and Benefits Manager</i></p> <p>30th April 2019</p>
Medium	<p>Diary date events are not always being adhered to / actioned. With team members able to use iWorld diary date facility or their own Outlook diary, monitoring is more difficult.</p> <p>Risk: <i>Accounts may fall behind and into arrears when this could have possibly been prevented. Monitoring of compliance with diary dates is not routine (a report via iWorld is available on overdue</i></p>	<p>Agreed. We accept that some staff use the iWorld system event dates as reminders to take future action and some use Outlook diary dates. We feel that staff should choose which is most useful to them but when doing this they need to make sure they take ownership of the case and do the follow up work every time.</p>	<p>Karen Parker, <i>Senior Local Taxation Officer</i> / David May, <i>Principal Revenues and Benefits Officer</i></p> <p>30th April 2019</p>

	<i>diary dates and use of this would also add to quality checking).</i>	This will be monitored as part of the Performance Management work.	
High	<p>There is a legacy of HB Overpayment debts, which requires specific focus and management to ensure that the most effective collection of these monies is applied.</p> <p>Risk: <i>Resources may not be effectively utilised in identifying collectable HB Overpayment debts and then working these.</i></p>	<p>Agreed</p> <p>There is an overall recovery rate of 68% which is very encouraging, but we accept that there has not been enough performance management to ensure that we have the focus on being as effective as we can be on collecting this debt.</p> <p>This will now be monitored more carefully as part of the Performance Management work.</p>	<p>David May, <i>Principal Revenues and Benefits Officer</i></p> <p>30th April 2019</p>
Low	<p>The current write off procedure (April 2012) requires review to update the title of authorisers.</p> <p>Risk: <i>There is no clarity to managers on authorising write offs.</i></p>	<p>Agreed</p> <p>We will discuss this with the Executive Head of Finance (Section 151 Officer), to review the write-offs values and see if the authorisation amounts can be increased.</p>	<p>Dawn Menzies-Kelly, <i>Revenues and Benefits Manager / David May, Principal Revenues and Benefits Officer</i></p> <p>30th June 2019</p>
Low	<p>All write-offs, even the smallest value, have to be approved by the Executive Head of Finance, and any over £2,000 have to be approved by the Portfolio Holder.</p> <p>Risk: <i>Write-offs could be managed more efficiently as those being authorised by the Portfolio Holder can cause a delay for a relatively low value, and the Executive Head of Finance is spending administration time on even the smallest of write-off values.</i></p>	<p>Agreed.</p> <p>We will discuss this with the Executive Head of Finance (Section 151 Officer).</p>	<p>Dawn Menzies-Kelly, <i>Revenues and Benefits Manager</i></p> <p>30th June 2019</p>

High	<p>The iWorld system still allows both 'creating' and 'approval' of write-offs by the Principal Revenues & Benefits Manager and the Senior Local Taxation Officer.</p> <p>Risk: <i>The council is vulnerable to fraud.</i></p>	<p>Agreed. We will change the current process and ensure that an officer is either a 'submitter' or an 'approver' for write-offs but not both.</p>	<p>David May, <i>Principal Revenues and Benefits Officer</i></p> <p>31st March 2019</p>
Medium	<p>Testing identified an account in relation to a HB Council Tax Reduction overpayment which was written off due to Local Authority error. This was authorised by the Revenue & Benefits Manager and this has been the process for several years for write-offs of this nature. The RBC Financial Regulations do not clarify the authorising parameters for such transactions.</p> <p>Risk: <i>There is an absence of guidance for management within the Rushmoor Financial Regulations for all Revenue & Benefits write-off types.</i></p>	<p>Agreed. Despite discussing this with the previous Section 151 Officer, no action was ever taken to look at the Housing Benefit Write Off policy and the level of authorisation. We will discuss and review this with the Executive Head of Finance (Section 151 Officer).</p>	<p>Dawn Menzies-Kelly, <i>Revenues and Benefits Manager</i></p> <p>30th April 2019</p>
Low	<p>There is currently no audit trail on the iWorld system with regards to the progress of write offs and where they are held.</p> <p>Risk <i>With no audit trail being available, any paperwork mislaid, containing sensitive data, which could lead to Governance issues.</i></p>	<p>Agreed. We will carry out an exercise to find out what write-offs are outstanding and complete the process. Anyone dealing with a write-off in the future is required to update the notepad to maintain an audit trail.</p>	<p>David May, <i>Principal Revenues and Benefits Officer</i></p> <p>30th June 2019</p>
Medium	<p>There are currently no regular quality checks being performed on team members' work which would assist in monitoring issues identified as part of the audit in regard to diary dates, quality of notes,</p>	<p>Agreed. A comprehensive performance management process will be put into</p>	<p>David May, <i>Principal Revenues and Benefits Officer</i></p>

	<p>process steps, etc.</p> <p>Risk: <i>Work completed may not adhere to the requirements of quality and effective debt collection.</i></p>	<p>place for monitoring of work across the service. All staff will be advised of the performance monitoring process.</p>	<p>30th April 2019</p>
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Audit Title 6	Card payments - follow up		
Year of Audit	2017/18		
Assurance given at time of the audit	<i>Reasonable – Basic controls designed to achieve the system/function/process objectives, are in place. Improvements are required if key controls are to be established.</i>		
Assurance given at time of the follow up	<i>Substantial – Key controls designed to achieve the system/function/process objectives, are in place. There are opportunities to enhance/strengthen these controls.</i>		
Overview of area	<p>As a result, of a complaint dealt with by Parking Services, a review of how card payments are processed and training given to officer who take payments, was carried out.</p> <p>The findings from the audit resulted in 1 medium priority recommendation being made which was agreed by management. A follow up was carried out to establish the progress towards implementation of the recommendation.</p>		
Priority	Way forward agreed	Follow up findings	Recommendation status
Medium	There is an option for online training This will ensure that a record is held to demonstrate that staff are aware of processes and furthermore they will be reminded annually.	This form of training is currently being developed in line with the requirements of GDPR. The Data Protection training will give a general overview. However, more specific card payment training may be looked at as part of the Payment Card Industry Data Security Standard (PCI DSS).	Not implemented
	In addition, a 'toolbox talk' document could be completed when specific training on taking card payments is given. This can detail what training was given and all attendees then sign the document to show that they have attended the training.	A standard set of training notes are used in order to train new users. The Customer Services Team Leader holds a record of who has been recently trained by them. A list of do's and don'ts in relation to taking card payments was produced by the Customer Services Team Leader. This was email out to all 'pay.net' users as a reminder.	Implemented

Audit Title 7	Parking Machine Income - follow up		
Year of Audit	2017/18		
Assurance given at time of the audit	<i>Reasonable – Basic controls designed to achieve the system/function/process objectives, are in place. Improvements are required if key controls are to be established.</i>		
Assurance given at time of the follow up	<i>Substantial – Key controls designed to achieve the system/function/process objectives, are in place. There are opportunities to enhance/strengthen these controls.</i>		
Overview of area	<p>An audit was carried out on parking machine income in June 2017. The audit found that discrepancies existed between the amount of cash collected and the amount recorded on the parking machines. However this was linked to the age of the machines, which were due to be replaced.</p> <p>There was a sound audit trail in place to support the reconciliation of the income. However, with the introduction of the new parking machines, which allow for card payments, the process will require updating in order to correctly reconcile all income.</p> <p>The findings from this audit resulted in 8 recommendations being made, 7 of which were medium priority and 1 low priority. These recommendations were all agreed by management.</p>		
Priority	Way forward agreed	Follow up findings	Recommendation status
Medium	Due to the age of the current parking machines, the introduction of the new machines should reduce the discrepancies between the amount collected and the amount recorded by the parking machine. The Parking Manager will review these discrepancies to ensure that they are reduced.	The new machines were all fully in place by May 2018. The discrepancies between the amount collected and the amount recorded by the parking machine has substantially reduced, with majority of the time a zero discrepancy being recorded.	Implemented
Medium	The bank recounts the amount of cash collected by Contract Security but do not provide the Parking Manager with the details of any discrepancies identified. Therefore,	Details of the discrepancies cannot be provided, as the amount the bank receives is the amount that they record, they do not take into account how much	N/A

	<p>making the reconciliation process lengthy.</p> <p>The Parking Manager will look to obtain details of discrepancies between the amount counted by contract security and the amount counted by the bank, so that clearer reconciliations can be carried out.</p>	<p>contract security say they have collected.</p> <p>Emails are sent to the accountants, which highlight the discrepancies but these amounts are generally low but if significant they would be investigated further.</p>	
Medium	<p>The Leisure Centre parking refund reconciliation is a complex and timely manual process and a full monthly reconciliation is limited to the resourcing available and other work priorities. It was therefore agreed that a random full monthly reconciliation will be carried out by the Parking team on a quarterly basis and any errors will be highlighted. Furthermore, the Parking Manager will notify the Leisure Centre of any discrepancies.</p>	<p>Due to resource constraints, this has not been carried out but it will be carried out once resources are not a constraint.</p>	Not implemented
Medium	<p>The documented agreement with the Leisure Centre requires updating to correctly reflect what parking refunds are applicable. However, due to the complexity of the parking ticket refund process, for both Rushmoor and the Leisure Centre, consideration should be given by the Head of Community and Environment to offering the Leisure centre a fixed annual amount for the refunds.</p>	<p>Next year the Leisure contract is due for renewal/retender. This is something that can be considered within this process as it would not be effective to start looking at this area so close to the retender exercise being carried out.</p> <p>Furthermore, the Parking Manager advised that they are looking to change the parking times within this car park.</p>	Not implemented
Medium	<p>The Parking Manager will review the GP surgery agreement and ensure that the correct expenditure ratio is used.</p>	<p>The GP surgery contract, which was signed on the 18th November 2016, shows that the ratio that should have been used was 24:58 rather than 14:58.</p>	Implemented

		<p>The ratio of 14:58 has continued to be used therefore £467.68 of the expenditure has not been passed onto the GP surgery resulting in a shortfall of income for the Council.</p> <p>The Parking Manager is going to use the correct ratio going forward and will liaise with the Head of Operations to determine if they reclaim the shortfall from the GP surgery.</p>	
Medium	Shaftesbury (was Co-op) agreement was not in place and signed. The agreement was due to be signed by Shaftesbury.	The agreement has been back and forth with Shaftesbury in order to get it agreed and signed. The last communication with Shaftesbury was around August 2018. The Property Lawyer will get in contact with them in order to get the agreement signed. Currently the income and expenditure is continuing to be split based on the old agreement with Co-op, which expired in March 2010.	Not implemented
Low	Procedure notes required updating due to the introduction of the new parking machines and changes to current processes. Electronic procedure notes will be developed by September 2017 by the Parking Manager, once the new parking machines and process are in place.	Due to resource constraints the procedure notes have not been made electronic or updated.	Not implemented
Medium	Introduction of the new parking machines means different income streams will be available. The reconciliation process will	The income reconciliation has been updated and carried out by Financial Services. The process has been	Implemented

	<p>require updating.</p> <p>Audit consultancy days have been allocated to assist with the updating of the income reconciliation spreadsheet.</p>	<p>simplified however, there are still some areas which are being looked at with the system providers, 3cs. One area, which cannot currently be reconciled, is the handling fee charged by 3cs.</p>	
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**GOVERNMENT CONSULTATION ON
GUIDANCE TO TAXI & PRIVATE HIRE LICENSING AUTHORITIES**

SUMMARY AND RECOMMENDATIONS

This report seeks to make Members aware of a Government (Department for Transport (DfT)) consultation on proposed statutory guidance to licensing authorities responsible for the taxi and private hire licensing regimes; functions currently provided by the Council's Licensing team in Operational Services.

Whilst building on past DfT guidelines, the proposed guidance has been published, in part, as a response to the Government's Modern Crime Prevention Strategy which follows a number of high profile failures resulting in child sexual abuse and exploitation in the industry. Consequently, the proposed guidance seeks to bolster the regulation of the taxi and private hire sector by introducing new guidelines concerning driver safeguarding awareness and training, language proficiency, in-cab CCTV, enhanced background checks and multi-agency working and information sharing.

The consultation document is open for comments until the 22 April 2019. Members are invited to consider its contents and/or implications and make any representations as individuals or as a collective in the name of the Committee as may be appropriate.

1. BACKGROUND & INTRODUCTION

- 1.1 The Department for Transport (DfT) first issued best practice guidance to assist licensing authorities that have responsibility for the regulation of taxi and private hire vehicle trades in England & Wales in 2006. Following administrative and case law developments, this was revised and updated again in 2010.
- 1.2 As a licensing authority responsible for the regulation of hackney carriage and private hire drivers, vehicles and operators, the Council has sought to regulate the taxi trades with DfT guidance in mind. Indeed, much of the Council's current taxi licensing policy established in 2012 is centred around the 2010 guidance.
- 1.3 Now, and in recognition that taxis and private hire vehicles present a high risk environment, the DfT has published (February 2019) additional guidance for licensing authorities for consultation. The proposed guidance seeks to enhance and strengthen the regulation of the taxi and private hire trades; and follows a number of high profile failures resulting in child sexual abuse and exploitation in the industry (e.g. Rotherham, Rochdale, South Ribble etc).
- 1.4 Indeed, such is the prevalence and concern around child sexual abuse and exploitation, that this has become a central tenet of the Government's Modern

Crime Prevention Strategy. It is in line with this, that the Secretary of State for Transport has published the additional guidance under section 177(1) of the Policing & Crime Act 2017 in order to place the guidance on a statutory footing. This will effectively make it 'statutory guidance' to which licensing authorities must have regard when exercising their functions.

- 1.5 The DfT's own outline of the consultation is given at **appendix A**, whilst a copy of the proposed guidance is given at **appendix B**. Electronic copies of both documents, together with the DfT's impact assessment can be found on the Gov.uk website at <https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-licensing-protecting-users>.
- 1.6 Members are invited to consider the consultation documents and make any representations as individuals or as a collective in the name of the Committee as may be appropriate. Whilst an outline of the key proposals are summarised below, the consultation is open for comments until the **22 April 2019**.

2. KEY PROPOSALS AND ISSUES

- 2.1 Whilst much of the proposed guidance builds on that given previously, the following matters are notable additions, points of clarification and/or new in scope; including -
 - **Fit and proper person test** – Previously undefined, the proposed guidance provides some definition of this test and seeks to quantify the point at which fitness and propriety is determined (i.e. the applicant or licensee should **not** be given the benefit of the doubt and in 50:50 debates as to fitness and propriety, should not hold or be given a licence).
 - **Training** – It is considered essential that all those involved (i.e. officers, Committees and Sub-Committees) in the determination of licensing matters must have received sufficient training and are adequately resourced to discharge the function effectively and correctly. It is proposed that this should include training on licensing procedures, natural justice, the risks of child sexual abuse and exploitation, disability and equality awareness.
 - **DBS Update Service** – It is recommended that licensing authorities require licensees to subscribe to and make use of the DBS update service. It is further recommended that licensing authorities routinely check the DBS certificates of their licence holders, for example every six months.
 - **Referrals to DBS, Police and Multi-Agency Safeguarding Hubs** – It is recommended that licensing authorities make safeguarding referrals to and share intelligence more widely with appropriate agencies.
 - **Safeguarding awareness** – It is proposed that taxi and private hire drivers be required to undertake safeguarding training, not only to identify and respond to the risks of child sexual abuse and exploitation, but also other forms of exploitation, such as 'county lines' drug trafficking.

- **Language proficiency testing** – It is recommended that enhanced level English language skills (both oral and written) should be considered requirements for applicants and licence holders to fulfil their duties.
- **Private hire operator ancillary staff** – The guidelines recommend that all staff that have contact with users and/or are involved in the dispatching of vehicles be subject to registration requirements. It is further recommended that operators have sight of basic DBS checks for all those so registered and provide policies on the employment of ex-offenders.
- **In-cab CCTV** – The DfT recommend the mandatory installation of in-cab CCTV to facilitate a safer environment for both passengers and vehicle drivers and provide deterrence and investigative value to incidents.

3. IMPLICATIONS & COMMENTARY

- 3.1 Whilst subject to change(s) following consultation, there are no financial and/or resource implications directly associated with the consultation proposals at this time.
- 3.2 However, there may be a notable increase in workload(s) and costs where the guidelines are [to be] fully implemented. Whilst unable to quantify this at this stage, this will likely arise from enhanced procedural, supportive and policy requirements.
- 3.3 Indeed, whilst many of the proposals were already planned, the Council's current taxi licensing policy will require some review and update. Some matters, for example, training and the mandatory provision of in-cab CCTV, will, in particular, and if implemented, require significant preparatory and ongoing maintenance work. However, in some cases, some of this work will be off-set by its deterrence, investigation and outcome benefits.

4. CONCLUSIONS

- 4.1 The taxi and private hire trades are rightly recognised as high risk sectors which require a proportionate level of regulation. Following a number of high profile failures resulting in child sexual abuse and exploitation, the DfT has prepared new guidance to licensing authorities that seeks to enhance the regulation of the industry and better safeguard its users. The proposed guidance is open to public consultation until the 22nd April 2019.

BACKGROUND

DOCUMENTS: - None

CONTACT DETAILS:

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Appendices:

Appendix	Description
A	Taxi and private hire vehicle licensing - protecting users: consultation document
B	Taxi and private hire vehicle licensing - protecting users: statutory guidance for licensing authorities (consultation version)

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**TAXI AND PRIVATE HIRE VEHICLE LICENSING - PROTECTING USERS:
CONSULTATION DOCUMENT**



Taxi and Private Hire Vehicle Licensing: Protecting Users

Consultation on Statutory Guidance for Licensing Authorities

Moving Britain Ahead

DfT-2019-01

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Foreword

In recent years the taxi and private hire vehicle (PHV) industry has been subject of intense scrutiny as a result of failings in taxi and PHV licensing. Some authorities failed to ensure that individuals were 'fit and proper' to be issued a taxi or PHV licence and failed to take action when concerns were raised about the involvement of licensees in the abuse and exploitation of some of the most vulnerable in our society.

Above all else the taxi and PHV services provided to the public must be safe. Government will play its part, but the importance of local government in achieving this cannot be overstated. Government enables the legislative framework but it is the licensing authorities which set the standards and requirements and crucially make the decisions that can bring about the services the public deserve.

A key element of safety is ensuring that taxi and PHV drivers are properly assessed against robust standards and that this is the case regardless of where they are licensed. The granting of a licence must however not be seen as the end of the process but the beginning; licensees must continue to adhere to the high standards or risk having their licence revoked.

The excellent work undertaken in Rotherham following the identification of its past failings evidences what can be achieved with the powers licensing authorities currently have. We have recognised that not all licensing authorities are as proactive as others in raising standards. To address this, the Policing and Crime Act 2017 enables the issuing of statutory guidance to protect children and vulnerable adults, and by extension all passengers, when using these services.

Some of the recommendations proposed in the guidance would impose additional burdens on the trade. While I would sooner that such measures were not needed, the lessons from the Casey and Jay reports and the impact on the lives of those affected by these failures must not – and will not - be forgotten. To do otherwise would compound the harm and injustice done.

I hope that all authorities will adopt the Department's recommendations and bring about high common standards, and increased sharing of information and enforcement powers. There has long been a call for national standards to achieve greater consistency in licensing and in particular with respect to safety. Government, with the collaboration of all licensing authorities, can effectively bring this about without the delay of Parliament considering new legislation.

The Department has already undertaken to monitor the adoption of the recommendations made in the final version of the statutory guidance. While the measures in the final statutory guidance issued will be recommendations, these are the result of extensive discussions with a range of stakeholders and careful consideration. I will be asking licensing authorities that do not adopt these why they have not done so.



Nusrat Ghani MP

Parliamentary Under Secretary of State for Transport

What we are consulting on

Introduction

- 1 We are seeking views on proposed recommendations contained in draft 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 power to issue this guidance comes from Section 177 of the Policing and Crime Act 2017.
- 2 This consultation will run for 10 weeks, from 12 February 2019 until 23:45 on 22 April 2019.

Who this consultation is aimed at

- 3 Section 177 of the Policing and Crime Act requires the Secretary of State to consult the following:
 - a. the National Police Chiefs' Council,
 - b. persons who appear to the Secretary of State to represent the interests of public authorities who are required to have regard to the guidance,
 - c. persons who appear to the Secretary of State to represent the interests of those whose livelihood is affected by the exercise of the licensing functions to which the guidance relates, and
 - d. such other persons as the Secretary of State considers appropriate.
- 4 This consultation has therefore been drawn to the specific attention of the National Police Chiefs' Council, the Local Government Association, the National Association of Licensing Enforcement Officers, the Institute of Licensing, and a range of trade representative bodies and publications of which the Department is aware across the country.
- 5 This is a public consultation and we are keen to hear from any other groups or individuals with an interest.

Our approach

- 6 The recommendations in the draft statutory guidance are the result of extensive engagement and detailed discussion with a range of bodies including representatives of licensing authorities, regulators, operators and drivers, and detailed consideration by the Department for Transport.
- 7 While there is a widespread consensus amongst stakeholders that common core standards are required to regulate better the taxi and PHV sector, government does

not currently have the legislative power to introduce national standards. The Department however expects the recommendations made in the final version of this statutory guidance to be implemented by licensing authorities unless there is compelling local reason not to. This consultation does not seek to discuss the merits of statutory guidance as opposed to legislation to mandate standards. Should Parliament pass legislation in the future to enable national taxi and PHV standards, the recommendations contained in both the statutory and best practice guidance will naturally be the starting point for considering what these might be.

- 8 All local authorities and district councils that provide childrens' and other types of services 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 Children¹ statutory guidance.
- 9 **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 this guidance might be drawn upon in any legal challenge to an authority's practice; any failure to adhere to the guidance without sufficient justification could be detrimental to the authority's defence.** This guidance 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.
- 10 The draft statutory guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department's best practice guidance was last updated in 2010. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults, the Immigration Act 2016, the Disclosure and Barring Service checks and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 11 This guidance replaces relevant sections of the best practice guidance issued by the Department in 2010. A consultation on revised best practice guidance, which focuses on recommendations to licensing authorities to assist them in setting appropriate standards (other than those relating to passenger safety) to enable the provision of services the public demand, will be launched at a later date.

¹ <https://www.gov.uk/government/publications/working-together-to-safeguard-children-2>

Consultation proposals

- 12 The draft statutory guidance accompanies this consultation document.

Terminology

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

Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All PHV journeys must be pre-booked via a licensed PHV operator. The term PHV is used throughout the draft statutory guidance and this consultation document to refer to all such vehicles.

Consultation questions

- 13 The Department has carefully considered the recommendations proposed in the draft statutory guidance but these are of course subject to change following this consultation. While it is useful to have indications of the quantity of respondents that agree or disagree with these proposals, the Department wants to ensure that the final recommendations are informed by all available evidence and suggestions where these can be improved. We are specifically interested in ideas and proposals that:
 - are based on evidence
 - support the Government's aim to protect children and vulnerable adults from harm when using taxis and PHVs
- 14 There are 30 questions relating to the guidance, most of these ask for quantifiable (agree, disagree or no opinion) and qualitative (comments) responses.
- 15 Ahead of the consultation questions we would like to collect some information about you and your use of and/or role in the taxi and PHV trade. This information will be used to help to give context to the responses we receive from individuals and organisations. Only questions marked with an * are mandatory.
- 16 The consultation questions and a response form are available at:
<https://www.smartsurvey.co.uk/s/taxis-licence/>

Confidentiality and data protection

- 17 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.
- 18 As part of this consultation we are 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.
- 19 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.
- 20 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>.
- 21 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>.
- 22 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.

How to respond

The consultation period began on 11 February 2019 and will run until 23:45 on 22 April 2019. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at <https://www.gov.uk/dft#consultations> or you can contact Taxis@DfT.GOV.UK if you need alternative formats (Braille, audio CD, etc.).

Please respond to the consultation at:

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

Alternatively, please send consultation responses to:

SG-Consultation2019@DfT.GOV.UK

Department for Transport
Buses and Taxis Division (Statutory Guidance Consultation 2019)
Great Minster House
33 Horseferry Road
London
SW1P 4DR

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure

of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

What will happen next

A summary of responses, including the next steps, will be published within three months of the consultation closing. Paper copies will be available on request.

If you have questions about this consultation please contact:

Paul Elliott

Taxis@DfT.GOV.UK

Buses and Taxis Division

Department for Transport

Great Minster House

33 Horseferry Road

London

SW1P 4DR

**TAXI AND PRIVATE HIRE VEHICLE LICENSING - PROTECTING USERS:
STATUTORY GUIDANCE FOR LICENSING AUTHORITIES
(CONSULTATION VERSION)**



**Taxi and Private Hire Vehicle
Licensing: Protecting Users**

Statutory Guidance for Licensing
Authorities

February 2019 – consultation version

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1. Introduction

- 1.1 The Department first issued Best Practice Guidance to assist those licensing authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades in 2006. Following consultation with stakeholders, taking into account their feedback on the original version, the Guidance was revised and updated in 2010.
- 1.2 There is evidence to support the view that taxis and PHVs are a high-risk environment. In terms of risks to passengers, this can be seen in the number of sexual crimes reported which involve taxi and PHV drivers. Data from Greater Manchester¹ and Merseyside² on reported sexual assaults 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% in the Crime Survey for England and Wales³.
- 1.3 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this guidance, 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 2014⁴, 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.
- 1.4 There is consensus that common core minimum standards are required to regulate better the taxi and PHV sector, and the recommendations in this document are the result of detailed discussion and consideration. **The Department therefore expects these recommendations to be implemented unless there is compelling local reason not to.**

¹ https://www.whatdotheyknow.com/request/sex_attacks_2

² https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178

³ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

⁴ <http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted>

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- 1.5 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Guidance issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxis and PHVs was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate the sector, this guidance would however cease to apply.
- 1.6 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*⁵ statutory guidance.
- 1.7 This new Statutory Guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department's Best Practice Guidance was last updated. 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).
- 1.8 This Statutory Guidance replaces relevant sections of the Best Practice Guidance issued by the Department in 2010. A consultation on revised Best Practice Guidance, which focuses on recommendations to licensing authorities to assist them in setting appropriate standards (other than those relating to passenger safety) to enable the provision of services the public demand, will be taken forward once the final Statutory Guidance has been issued.

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 guidance and refers to all such vehicles. Taxis are able to be hired immediately by hailing on the street or at a rank.

Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All PHV journeys must be pre-booked via a licensed PHV 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 **PHV** is used throughout this guidance to refer to all such vehicles.

⁵ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

2. Statutory Guidance

Consideration of the Statutory Guidance

- 2.1 The Government set out in the Modern Crime Prevention Strategy⁶ 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.
- 2.2 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 PHV licensing regimes. Both the Jay⁷ and Casey⁸ reports on CSAE highlighted examples of taxi/PHV 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.
- 2.3 The Casey Report made clear that weak and ineffective arrangements for taxi and PHV 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 formulation of this Statutory Guidance.
- 2.4 This Statutory Guidance 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).
- 2.5 The Guidance 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 PHV licensing regimes. "Having regard" is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.6 "Having regard" to guidance requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that this is statutory guidance issued directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these recommendations cannot be overestimated.** It is not a question of box ticking; the recommendations must be considered rigorously and with an open mind.
- 2.7 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 this Guidance might be drawn upon in any legal

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf

⁷ https://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham

⁸ <https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>

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challenge to an authority's practice, and that any failure to adhere to the Guidance without sufficient justification could be detrimental to the authority's defence. In the interest of transparency however, the Department encourages all licensing authorities to publish their consideration of the recommendations contained in this Guidance and the policies and delivery plans that stem from these. The Department has already undertaken to monitor the effectiveness of the Statutory Guidance in achieving an appropriately high level of standards in taxi and PHV licensing with regard to the protection of passengers.

- 2.8 This Guidance 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.

Licensing policy

- 2.9 The Department encourages licensing authorities to create a cohesive policy document that brings together all their procedures on taxi and PHV licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 2.10 When formulating a taxi and PHV 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 failings⁹.

"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."

- 2.11 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."

⁹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/401125/46966_Report_of_Inspection_of_Rotherham_WEB.pdf

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- 2.12 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 PHV sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere are 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.
- 2.13 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. It is therefore recommended that licensing authorities regularly review their licensing policies and their performance, but should also consider interim reviews should there be significant issues arising in their area.

Fit and proper test

- 2.14 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or PHV 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?

- 2.15 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 2.16 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 2.19 below) 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 therefore include information that goes beyond criminal convictions.

Administration of the licensing framework

- 2.17 A policy is only as effective as the way it is administered. The taxi and PHV 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 where 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.
- 2.18 It is essential that all those involved in the determination of licensing matters have received sufficient training and are adequately resourced to allow them to discharge the function effectively and correctly. The Department for Transport

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supports the recommendation of the LGA that, as a minimum, training should cover licensing procedures, natural justice, understanding the risks of CSAE and disability and equality awareness in addition to any other issues deemed appropriate. Training should not simply relate to procedures, but should also cover the making of difficult and potentially controversial decisions – the use of case study material can be helpful to illustrate this. 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 the LGA can assist in the development of training packages.

2.19 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.

2.20 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.

2.21 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 2.19. 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

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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.

2.22 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. 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.

2.23 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.

2.24 Regardless of which approach is adopted, all councils 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.

Whistleblowing

2.25 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in this Guidance and believe that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of this Guidance is to protect children and vulnerable adults, and by extension the wider public, when using taxis and PHVs. However, it is in the application of these 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

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and remedial action taken if required. It is therefore recommended that licensing authorities have effective internal procedures for staff to raise concerns and procedures in place 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.

2.26 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 PHV] passengers in the manner in which licensing issues were addressed”*. We are pleased to note that the report concludes¹⁰, *“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.”*

2.27 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.

2.28 The Public Interest Disclosure Act 1988 (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.

Implementing changes to licensing policy and requirements

2.29 It is important to remember that any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. 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

¹⁰ http://www.southribble.gov.uk/sites/default/files/FINAL_REPORT_JUNE_2016.pdf

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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.

- 2.30 Where a more subjective change has been introduced, for example an amended policy on previous convictions, licensing authority must still consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities are able to do so. Licensing authorities should record the reasons for any deviation from the policies in place.

The Disclosure and Barring Service

- 2.31 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. 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.
- 2.32 The DfT's 2018 survey of taxi and PHV licensing authorities¹¹ shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal. The Department considers that all licensing authorities should also request a check of the barred lists in addition to the enhanced DBS check, for individuals applying for or renewing taxi and PHV driver licences.
- 2.33 Enhanced certificates with 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. The filtering rules allow for certain old and minor convictions to be removed from a DBS certificate after an appropriate period has passed, but they do not allow filtering where an individual has more than one conviction, has received a custodial sentence or has committed a specified serious offence such as those involving child sexual abuse. Full details of the filtering rules, and those offences which may never be filtered, are available from the DBS¹². As well as convictions and cautions, an

¹¹ <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2018>
¹² <https://www.gov.uk/government/collections/dbs-filtering-guidance>

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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 detailed statutory guidance¹³ when considering disclosure. The information provided at each level of DBS checks is summarised in table 1.

- 2.34 It should be noted that licensing authorities must not seek to circumvent the legitimate filtering of previous criminal convictions and other information held by the DBS. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.
- 2.35 Whilst data protection legislation¹⁴ gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, you must not require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This is an offence under data protection legislation.
- 2.36 Driving a taxi or PHV is not, in itself, a regulated activity. This means that an individual subject to barring would not be legally prevented from being a taxi or PHV driver but the licensing authority should take an individual's barred status into account alongside other information available. It is the Department's opinion that, 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.
- 2.37 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006¹⁵. It is an offence to knowingly allow a barred individual to work in regulated activity. The guidance on home-to school travel and transport¹⁶ issued by the Department for Education should be considered alongside this document. Please see DBS guidance on driver eligibility and how to apply.

¹³ <https://www.gov.uk/government/publications/statutory-disclosure-guidance>

¹⁴ the full range of data protection legislation, not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)

¹⁵ <https://www.legislation.gov.uk/ukpga/2006/47/contents>

¹⁶ <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

INFORMATION INCLUDED IN CRIMINAL RECORD CHECKS				
Information included	Type of check			
	Basic	Standard DBS	Enhanced DBS	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	No	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

Table 1

1. Cautions include reprimands and warnings, but not 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 disclosed on any level of certificate. Further guidance is available at <https://www.gov.uk/government/publications/dbs-filtering-guidance/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).

DBS update service

- 2.38 Licensing authorities should make use of the DBS update service. This subscription service allows licensees to keep their DBS certificates up to date online and, with the individual's consent, allows licensing authorities (as a nominee) to check the status of a certificate online at any time. Subscription to the service removes the need for repeat checks, reduces the administrative burden and mitigates potential delays in relicensing. Licensees should be required to evidence continuous registration and nomination throughout the period of the licence.
- 2.39 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 level and type of DBS certificate. 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. Licensing Authorities should therefore consider routinely checking the DBS certificates of their licence holders, for example every six months.
- 2.40 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check facility that can be accessed via a web service. The Multiple Status Check facility enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the Multiple Status Check facility is available from the DBS.¹⁷ As discussed above, for taxi and PHV driver licensing purposes the recommended level of check is always the enhanced level with check of the adult and children Barred lists. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2.

Licensee self-reporting

- 2.41 As discussed above, the DBS update service is a valuable tool in discharging a licensing authority's duty to ensure that licence holders are fit to hold a licence. However, the routine checking of the DBS record should be in addition to a requirement that licence holders notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any motoring offence, or any offence involving dishonesty, indecency or violence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.
- 2.42 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of, would be a breach of a licence condition and might therefore be seen as behaviour that questions honesty and

¹⁷ <https://www.gov.uk/government/publications/dbs-update-service-multiple-status-checking-guide>

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therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to DBS and the police

2.43 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS; for example, 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 in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the DBS¹⁸.

2.44 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;
- the DBS may consider it appropriate for the person to be added to a barred list.

2.45 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 available¹⁹.

2.46 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.

Overseas convictions

2.47 **The DBS cannot access criminal records held overseas.** 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. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before

¹⁸ <https://www.gov.uk/government/publications/dbs-barring-referrals-local-authority-referral-duty-and-power/referral-duty-and-power-for-local-authorities-and-regulatory-bodies#local-authorities-as-regulated-activity-providers>

¹⁹ <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

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the age of 18 may not be relevant. For information on applying for overseas criminal record checks or 'Certificates of Good Character' please see the Home Office guidance²⁰. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.

- 2.48 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

Conviction policy

- 2.49 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.

- 2.50 Engagement with licensing authorities identified that greater direction from the Department was sought and in some cases required. The Department did not make specific recommendations regarding the assessment of convictions in the 2010 update of the Best Practice Guidance. In response to concerns raised by stakeholders and to assist in greater consistency in licensing, Annex A provides the Department's recommendations on this issue. 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 PHV licensees²¹. These periods should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. 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 each case must be considered on its own merits, and applicants are entitled to a fair and impartial public hearing of their application if required.

Common Law Police Disclosure

- 2.51 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 PHV drivers.

²⁰ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

²¹ [https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(18_May_2018\).pdf](https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(18_May_2018).pdf)

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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.

- 2.52 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.
- 2.53 The new procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. We would therefore strongly recommend that licensing authorities maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.

Other information

- 2.54 The LGA's Councillors' Handbook on taxi and private hire vehicle (PHV) licensing²² 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."*
- 2.55 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 we strongly recommend that action taken as a result of information received is 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.
- 2.56 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.
- 2.57 As has been stated elsewhere in this guidance, 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 should therefore 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. For this process

²² <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

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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.

- 2.58 The LGA's Taxi and PHV licensing Councillors' handbook²³ advises that Councils should meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared. 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 PHV driver licence refusals and revocations (the register is known as 'NR3'). The use of tools such as NR3 by licensing authorities to share information on a more consistent basis would mitigate the risk of non-disclosure of relevant information by applicants.
- 2.59 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 PHV driver 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 practice²⁴.
- 2.60 If notification under paragraph 2.57 or 2.58 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. The information disclosed 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.
- 2.61 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 2.57, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should therefore review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 2.62 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)

²³ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

²⁴ <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

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should operate on three common principles: information sharing, joint decision making and coordinated intervention.

- 2.63 The Home Office report on Multi Agency Working and Information Sharing²⁵ 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 Groups²⁶ 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.
- 2.64 The Department recommends all licensing authorities should establish a means to facilitate the objectives of a MASH. As has been emphasised throughout this guidance, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and PHVs is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

- 2.65 The LGA recommends that all councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual licensees²⁷. 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.
- 2.66 Licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that **must** be available on their website and displayed in 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 PHV driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged. A systematic recording of complaints will provide a further source of information to consider when renewing a licence for a driver or operator or identify problems during the period of the licence.
- 2.67 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.

²⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338875/MASH.pdf

²⁶ https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/07/If_only_someone_had_listened.pdf

²⁷ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

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2.68 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 2.104 - 2.106.

Duration of licences

2.69 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and PHV drivers and five years for PHV operators. Any shorter duration should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case. Such circumstances could include where the licensing authority considers that a probationary period is necessary 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.

2.70 A previous argument against this length of licence 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 by requiring licensees to subscribe to the DBS update service as discussed in paragraphs 2.38 – 2.40 and authorities to undertake regular interim checks. To help authorities monitor licensees' suitability, police forces should inform licensing authorities when they believe a licensee presents a risk to the travelling public. Paragraphs 2.51 - 2.53 provide further information about this process.

Safeguarding awareness

2.71 Licensing authorities should consider the role that those in the taxi and PHV 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.

2.72 It is the Department's recommendation that licensing authorities provide safeguarding advice and guidance to the trade and that taxi and PHV drivers are required 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.

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2.73 In February 2018, the Department for Education (DfE) launched phase 3 of its nationwide campaign – ‘Together we can tackle child abuse’. Building on phases 1 and 2, which ran in 2016 and 2017, it aims to increase public understanding of how to recognise and report child abuse and neglect. The DfE has developed an online toolkit²⁸ of material for local authorities, charities and other organisations to use to support the campaign.

Other forms of exploitation – ‘County lines’ drug trafficking

2.74 Victims of exploitation may not appear as such at first sight. 74% of police forces noted the exploitation of vulnerable people (including children) by gangs and organised criminal networks involved in trafficking illegal drugs within the UK²⁹ to move and store drugs and money across the country, often from urban areas to regional locations. They will frequently use coercion, intimidation, violence (including sexual violence) and weapons. This gang activity (known as county lines), and the associated violence, drug dealing and exploitation has a devastating impact on young people, vulnerable adults and local communities.

2.75 The National Crime Agency’s updated annual threat assessment of county lines reported that county lines groups are using taxis and PHVs as a method of transportation. In that assessment, 33% of police forces in England and Wales (14 forces) reported use of taxis and PHVs to transport drug couriers between markets. These couriers are often young people who have been exploited and may be victims of trafficking; the typical age range is 15-17 years old, but may be much younger. They may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues or reported as missing.

2.76 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:

- young people, sometimes as young as 12, travelling in taxis 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.

²⁸ <https://tacklechildabuse.campaign.gov.uk/>

²⁹ <http://www.nationalcrimeagency.gov.uk/news/1247-latest-threat-update-estimates-at-least-720-county-lines-drug-dealing-lines>

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2.77 The Home Office is working with partners to raise awareness of county lines and has produced promotional material that can be used by taxi and PHV companies.³⁰

2.78 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

2.79 Authorities should consider whether an applicant would have any problems in communicating with customers because of language difficulties. Licensing authorities have the freedom to specify the level of proficiency, but it is recommended to cover both oral and written English language skills necessary to fulfil their duties, including in emergency and other challenging situations. This should include:

- conversing with passengers to demonstrate an understanding of the desired destination, an estimation of the time taken to get there and other common passenger requests;
- providing a customer with correct change from a note or notes of higher value than the given fare, and doing so with relative simplicity;
- providing a legibly written receipt upon request.

Enforcement

2.80 Implementing an effective framework for licensing authorities is essential to a well-functioning taxi and PHV sector. These steps will help prevent the licensing of drivers that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

2.81 We have discussed the benefits of licensing authorities working collaboratively in regard to the sharing of information, and this can equally apply to enforcement powers. 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. Together with increased clarity for the public on complaining, these measures will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and

³⁰https://www.gov.uk/government/publications/county-lines-posters-for-taxi-and-private-vehicle-hire-staff?utm_source=HO&utm_campaign=LA

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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' handbook³¹.

2.82 It is not reasonable to expect drivers to adhere to a policy unless they 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.

2.83 The Department suggest that there should be a clear, simple and well-publicised process for the public to make complaints about drivers and operators. 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

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

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

2.85 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 PHV sector has been issued by the Home Office³². 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.

2.86 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the

³¹ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

³² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/613415/A_Licensing_Authority_guide_to_right_to_work_checks_-_England_and_Wales.pdf

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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.

- 2.87 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 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.
- 2.88 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.
- 2.89 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.

Criminal record checks for PHV operators

- 2.90 As with driver licensing, the objective in licensing PHV operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles they dispatch are above all else safe. It is important therefore that licensing authorities are assured that the operators they license also pose no threat to the public and have no links to serious criminal activity. Although an operator may not have direct contact with passengers, they are still entrusted to ensure that the drivers and vehicles used to fulfil a booking are appropriately licensed and so 'fit and proper'. PHV operators are also frequently provided with sensitive information such as periods when a home may be vacated as the residents are on holiday. Those making licensing decisions should consider whether they would be content for an applicant to hold sensitive information and are confident that this would not be misused.
- 2.91 PHV operators (as opposed to PHV drivers) are not eligible for standard or enhanced criminal records checks. We recommend that licensing authorities request a criminal conviction certificate (Basic disclosure) from the DBS. Any individual may apply for a Basic check and the certificate will disclose any unspent convictions recorded on the PNC. Licensing authorities should consider whether an applicant or licence holder with a conviction for offences detailed in Annex A (other than those relating to driving) meet the 'fit and proper' threshold.
- 2.92 PHV operator 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 PHV

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operators should be required to advise the licensing authority of any changes to the directors or partners.

- 2.93 Individuals, directors or partners granted a PHV operator licence should be required to subscribe to the DBS update service as a condition of licensing and licensing authorities should consider routinely checking the DBS certificates of their licence holders, for example every six months
- 2.94 As explained earlier in the context of driver licensing, the **DBS cannot access criminal records held overseas**. 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. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before the age of 18 may not be relevant. For information on applying for overseas criminal record checks or a 'Certificate of Good Character' please see the Home Office guidance³³ on criminal record checks for overseas applicants. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.
- 2.95 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in Annex A, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

PHV Operators - ancillary staff

- 2.96 PHV drivers are not the only direct contact that PHV users have with PHV operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle controller decides which driver to send to a user, a position that could be exploited by criminals. It is therefore appropriate that all staff that have contact with PHV users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 2.97 Licensing authorities should be satisfied that PHV 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 request that, as a condition of granting an operator licence, a register of all staff that will take bookings or dispatch vehicles is kept. The operator should be required to evidence that they have had sight of a Basic DBS check on all individuals listed.
- 2.98 Operators or applicants for a licence should also be required 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 PHV operators' licence, those with a

³³ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

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conviction for offences detailed in Annex A (other than those relating to driving) may not be suitable to handle the sensitive information the public may provide (e.g. that their home is likely to be empty between certain dates) or to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

- 2.99 Those granted an operator licence should be required to maintain a register of staff that take bookings and/or control vehicles and 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.

PHV Operators – Use of passenger carrying vehicles (PCV) licensed drivers

- 2.100 Members of the public are entitled to expect when making a booking with a PHV operator that they will receive a PHV 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 PHV booking should not be permitted as a condition of the PHV operator's licence. Drivers of PSVs who are PCV licence holders are not subject to the same checks as PHV drivers, as the work normally undertaken, i.e. driving a bus or coach, does not present the same risk to passengers.

PHV Operators - record keeping

- 2.101 Section 56 of the Local Government (Miscellaneous Provisions) Act 1976³⁴ requires PHV 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. The particulars to be recorded may be specified by the licensing authority as a condition of the operator licence. The Department recommend that this information should include:

- 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.

- 2.102 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 six months is generally appropriate as the length of time that records should be kept.

³⁴ <http://www.legislation.gov.uk/ukpga/1976/57>

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2.103 PHV 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.

In-vehicle visual and audio recording – CCTV

2.104 Government has acknowledged the potential risk to public safety when passengers travel in taxis and PHVs. In 2012 the Government enabled licensing authorities to undertake enhanced DBS checks. The Department appreciates that all licensing authorities have recognised the risk posed by the very small minority of licensed drivers and undertake this level of check. It is unfortunately the case that no matter how complete the information available to licensing authorities is, nor how robust the policies in place are and the rigor with which they are applied, it will never remove the possibility of harm to passengers by drivers. 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/PHV 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.

2.105 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 Wales³⁵ only 17% of victims report their experiences to the police, 28% 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.

2.106 The mandatory installation of CCTV in vehicles may deter people from seeking a taxi or PHV 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.

2.107 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 and targeted i.e. only when

³⁵

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

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passengers (or drivers) consider it necessary and all parties should be made aware that a recording is being made. 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.

- 2.108 It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and PHV 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.
- 2.109 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.
- 2.110 The Home Office '*Surveillance Camera Code of Practice*'³⁶ 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
- 2.111 The Code also sets out 12 guiding principles which, as a 'relevant authority' under the Protection of Freedoms Act 2012³⁷, 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.

³⁶ <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>
³⁷ [Section 33\(5\) of the Protection of Freedoms Act 2012](#)

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- 2.112 The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its *'Passport to Compliance'*³⁸ 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 Office³⁹ (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 tool⁴⁰ to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a certification scheme⁴¹; 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.
- 2.113 The Data Protection Act 2018⁴² 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 guidance⁴³ on how data controllers can ensure compliance with these.
- 2.114 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 guidance⁴⁴ 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. Licensing authorities should consult on this issue 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 PHV users, including children or vulnerable adults.
- 2.115 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

38 <https://www.gov.uk/government/publications/passport-to-compliance>

39 <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

40 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-self-assessment-tool>

41 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-third-party-certification-scheme>

42 <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

43 <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

44 <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/security/>

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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.

- 2.116 All passengers must be made aware if CCTV is operating in a vehicle. 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.

Stretched Limousines

- 2.117 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as PHVs. 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. Indeed, the Department's view is 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 service from the scope of the PHV 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.
- 2.118 Stretched large limousines which clearly have more than eight passenger seats should not in most circumstance be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some circumstances the Individual Vehicle Approval (IVA) regime accepts vehicles with space for more than eight passengers, particularly where the precise number of passenger seats is hard to determine. In these circumstances, if the vehicle has obtained an IVA certificate, 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.

Consultation at the local level

- 2.119 It is good practice for licensing authorities to consult on any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV 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

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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.

- 2.120 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and PHV sector in neighbouring areas; it would therefore be good practice to engage with these to identify any concerns and issue that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; the Department considers this approach to be good practice.

Annex A – Previous convictions guidance

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 PHV 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 public hearing of their application if required. The periods given below should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. 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

Where an applicant has a conviction for an offence of violence, 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 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, 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 of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a

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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 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing 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 7 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 of 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 PHV 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/using a hand-held telephone or hand held device whilst driving

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 7 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 will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

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 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex B - 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 PHVs e.g.:

- a taxi can be flagged down or pre-booked.
- a PHV that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a PHV 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.

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