

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

Agenda Item No. 6

meeting date: TUESDAY, 26 MARCH 2019
 title: PROTECTING USERS – TAXI AND PRIVATE HIRE VEHICLE CONSULTATION
 submitted by: MARSHAL SCOTT – CHIEF EXECUTIVE
 principal author: DIANE RICE – HEAD OF LEGAL AND DEMOCRATIC SERVICES

1 PURPOSE

1.1 To inform Committee about a consultation exercise which is being carried out by the Department for Transport between February 2019 and 22 April 2019 and to make arrangements to formulate the Council's response.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – } The Council aims to be a well-managed
 - Corporate Priorities – } Council, ensuring that any statutory guidance is
 - Other Considerations – } carefully considered and that the Council
- contributes to supporting best practice is part of
securing that aim.

2 BACKGROUND

2.1 In February 2019 the Department for Transport issued a consultation document in relation to statutory guidance for licensing authorities. The guidance arises from concerns which have been raised about the involvement of licence holders in the abuse and exploitation of some of the most vulnerable in society.

2.2 The consultation is being carried out in exercise of the power to issue guidance which comes from Section 177 of the Policing and Crime Act 2017 and is addressed in particular to the requirement to safeguard children and vulnerable adults.

2.3 A copy of the consultation document is attached at Appendix 1; a link to the draft guidance can be found in the consultation document.

3 ISSUES

3.1 In order to consider what response if any the Council should make to the consultation it would be necessary to carry out a careful comparison of the Council's existing policies with the proposals which are set out in the full consultation document.

3.2 In view of the fact that the consultation document has only recently been issued, it has not been possible to examine the document in any detail and is therefore recommended to Committee that they delegate authority to the Head of Legal and Democratic Services in consultation with the Chairman and Vice-Chairman of the Licensing Committee to formulate a response on behalf of the Council.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – N/A.
- Technical, Environmental and Legal – N/A.
- Political – N/A.
- Reputation – N/A.
- Equality & Diversity – N/A.

5 **RECOMMENDED THAT COMMITTEE**

- 5.1 Delegate to the Head of Legal and Democratic Services in consultation with the Chair and Vice-Chairman of this Committee, the formulation of a response on behalf of the Council.

DIANE RICE
HEAD OF LEGAL & DEMOCRATIC SERVICES

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

None.

For further information please ask for Diane Rice, extension 4418.

REF: DER/CMS/LICENSING/260319



Department
for Transport

APPENDIX 1

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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Contents

- Foreword 4
- What we are consulting on 6
- Consultation proposals 8
- Consultation questions 9
- Confidentiality and data protection 10
- How to respond 11
 - Freedom of Information 11
- What will happen next 13
- Consultation principles 14

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

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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

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Consultation principles

The consultation is being conducted in line with the Government's key consultation principles, further information is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
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