

Regulation and Review Committee

28 February 2019

Present: Councillor J O'Shea (in the Chair)
Councillors J Allan, K Bolger, D Cox,
P Earley, G Madden, M Madden, D McMeekan,
J Mole, T Mulvenna, J Osborne, L Spillard and J Wallace.

RQ60/02/19 Election of Chair

Resolved that Councillor J O'Shea serve as the Chair of the Committee for this meeting in the absence of the appointed Chair and Deputy Chair of the Committee.

[Councillor J O'Shea in the Chair]

RQ61/02/19 Apologies for Absence

Apologies for absence were submitted on behalf of Councillor A Austin.

RQ62/02/19 Substitute Members

There were no substitute members reported.

RQ63/02/19 Declarations of Interest and Dispensations

There were no declarations of interest or dispensations reported.

RQ64/02/19 Minutes

Resolved that the minutes of the meeting of the Regulation and Review Committee held on 15 November 2018 be confirmed as a correct record and signed by the Chair and the minutes of the Regulation and Review Panel meetings held on 29 November 2018, 10 January and 14 February 2019 be noted.

RQ65/02/19 Consultation on draft statutory guidance for Licensing Authorities

The Committee received a report from Public Protection Services which provided information on the current consultation on statutory guidance for Licensing Authorities by the Department for Transport (DfT) in relation to the licensing of taxis, private hire vehicles, drivers and private hire operators.

The Committee was informed that this was the first Statutory Guidance in relation to hackney carriage and private hire licensing published by a Secretary of State using the powers to publish such guidance under the Policing and Crime Act 2017. The DfT had

stated that it expected the recommendations made in the final version of the statutory guidance to be implemented by Licensing Authorities unless there was a compelling local reason not to do so. The Cabinet Member for Community Safety and Engagement had the delegated authority from the Mayor to respond to government consultation papers and the Committee's view, expressed at this meeting, would be submitted to the Cabinet Member for her consideration in formulating the Authority's response to the consultation.

It was noted that many of the areas covered by the consultation were already in operation in North Tyneside. New issues included:

- a) All licence holders should be required to subscribe to the Disclosure and Barring Service (DBS) update service;
- b) Appropriate DBS checks to be conducted every 6 months;
- c) Licensing Authorities should make referrals to the DBS when it considers that an applicant or licence holder is thought to present a potential risk of harm to the public;
- d) Licensing Authorities should produce guidance for passengers on making complaints directly to the Licensing Authority that must be displayed in licensed vehicles;
- e) Licensing Authorities should consider whether an applicant for a licence is able to communicate in English orally and in writing with customers;
- f) PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles and PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the register;
- g) PHV operators should be required to provide to the Licensing Authority their policy on employing ex-offenders that will take bookings or dispatch vehicles as a condition of their licence;
- h) PHV operators may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking;
- i) Licensing Authorities should carefully consider potential public safety benefits and potential privacy issues when considering mandating that taxis and PHVs have CCTV installed; and
- j) Annex A of the draft statutory guidance provided a list of offences to aid consistency in the 'fit and proper' assessment for licences.

In response to questions the Committee was informed about the differences between the licensing regime for coach drivers and taxis; how the subscription to the DBS service update would operate and the likely cost of this service to drivers and the Authority; how the law treated taxi drivers who were used as courier drivers in the supply of drugs; and the implications of requiring CCTV to be installed inside licensed vehicles.

The Committee was reminded that any guidance would need to be compliant with equalities legislation; that a policy did not fetter discretion and could always be departed from with a reason; and the current requirements of the Authority's current Hackney Carriage and Private Hire Licensing Policy in relation to reading and writing standards.

Members expressed concern regarding the impact the costs of these changes would have on the Trade and the Licensing Authority. The public protection manager explained that the private hire and hackney carriage licensing regime was a self-financing function of the Authority with a ring-fenced budget to meet these costs. When the final statutory guidance was issued and any changes to the Authority's current Policy and arrangements made, a review of the fees and charges of the licensing regime would probably need to be undertaken to ensure it met the costs associated with managing the taxi licensing regime.

A Member mentioned the importance of displaying information on how to complain to the licensing authority about a taxi driver clearly and in a prominent location in the front and rear of every licensed vehicle.

A Member expressed frustration regarding information sharing processes with the courts and cited examples of when drivers had appeared before a panel of the Committee for failing to disclose a conviction gained during the course of their licence. It was considered that there should be a process where the courts informed a licensing authority of any convictions imposed on one of their licensed drivers.

The Committee was reminded of the importance of remembering the passenger and that the safety of the travelling public was the overriding consideration of the licensing regime when considering the response to the consultation.

Members then went through the consultation document to provide a response to the questions and made comments, in addition to those made above, where appropriate. A copy of the Committee's response is attached as an appendix to these minutes.

Members were reminded that they could make a personal response to the consultation if they wanted to. The deadline for submissions was 22 April 2019.

Resolved (1) to note the consultation on the Statutory Guidance for Licensing Authorities; (2) for the comments made by the Committee as set out above and the responses to the consultation questions in the appendix to the minutes be submitted to the Cabinet Member for Community Safety and Engagement for her to consider prior to making her response on behalf of the Authority to the consultation; and (3) for information relating to the licensing regimes for coach companies, coach drivers and those operating home to school services for the authority and private hire companies to be provided to the Committee.

RQ66/02/19 Chair's Announcement

On behalf of the whole Committee the Chair thanked Ms Elizabeth Kerr, Democratic Services Officer, who was leaving the Authority after thirteen years' service and wished her well in her new role at the North of Tyne Combined Authority.

Appendix 1 – Regulation and Review Committee’s response to the consultation on Statutory Guidance for the licensing of taxis, private hire vehicles, drivers and private hire operators

Question	Yes/No	Comments
1. Your name and email address. We will only use this if we need to contact you to ask about any of your responses.	N/A	
2. Are you responding: * as an individual?/as a taxi driver?/as a PHV driver?/as a taxi intermediary?/as a PHV operator?/a licensing authority/the police/other (specify)?	N/A	
3. The draft statutory guidance recommends that all those involved in the determination of licensing matters should receive training covering licensing procedures, natural justice, child sexual abuse and exploitation, disability and equality in addition to any other issues deemed locally appropriate (paragraph 2.18). Do you agree with the recommendation?	Yes	
4. The draft statutory guidance recommends a council structure for dealing with licensing matters (paragraphs 2.20-2.24). Do you agree with this proposed structure?	Yes	
5. The draft statutory guidance recommends that all issued licences should be reviewed following changes in licensing policy (paragraph 2.29). Do you agree with this recommendation?	Yes	A proportionate approach needs to be taken depending on the significance of the change and whether it related to passenger safety.
6. The draft statutory guidance recommends that all drivers should be subject to an enhanced Disclosure and Barring Service (DBS) with barred lists check for individuals applying for or renewing taxi and PHV driver licences (paragraph 2.32). Do you agree with this recommendation?	Yes	Currently undertaken by NTC

Question	Yes/No	Comments
7. The draft statutory guidance recommends that all licence holders should be required to subscribe to the DBS update service (paragraph 2.38). Do you agree with this recommendation?	Yes	Subject to the fee remaining close to its current £13 a month.
8. The draft statutory guidance recommends that appropriate DBS checks are conducted every 6 months (paragraph 2.39). Do you agree with this recommendation?	Yes	
9. The draft statutory guidance recommends that drivers and operators should be required to notify the issuing authority within 48 hours upon arrest and release, charge or conviction of any motoring offence or any offence involving dishonesty, indecency or violence (paragraph 2.41). Do you agree with this recommendation?	Yes	Consider changing 'within 48 hours' to 'within two working days' for offices which close at weekends/BH.
10. The draft statutory guidance recommends that licensing authorities should make referrals to the DBS when it considers that an applicant or licence holder is thought to present a potential risk of harm to the public (paragraph 2.43). Do you agree with this recommendation?	Yes	
11. The draft statutory guidance recommends that a check of overseas criminality information or 'Certificate of Good Character' should be required, when an individual has spent a period of more than 3 continuous months outside the UK when over the age of 18 (paragraph 2.47). Do you agree with this recommendation?	Yes	

Question	Yes/No	Comments
<p>12. The draft statutory guidance recommends that licensing authorities should require applicants / licensees to disclose if they have been licensed elsewhere, or have had an application for a licence refused, or have had a licence revoked or suspended by any other licencing authority (paragraph 2.57). Do you agree with this recommendation?</p>	Yes	
<p>13. The draft statutory guidance recommends that licensing authorities should use tools such as the national register of taxi and PHV driver licence refusals and revocations (NR3) to improve information sharing (paragraph 2.58). Do you agree with this recommendation?</p>	Yes	
<p>14. The draft statutory guidance recommends that the authority considering the application / renewal should consult and consider other licensing decisions in its assessment, when an applicant / licensee discloses they: have had an application refused, or had a licence revoked or suspended elsewhere (paragraph 2.60). Do you agree with this recommendation?</p>	Yes	
<p>15. The draft statutory guidance recommends that multi-agency safeguarding hubs (or similar) should be established by licensing authorities to improve the sharing of relevant information (paragraph 2.64). Do you agree with this recommendation?</p>	Yes	<p>NTC has an established MASH and appropriate information sharing has been utilised by the licensing authority.</p>
<p>16. The draft statutory guidance recommends that licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that must be displayed in licensed vehicles (paragraph 2.66). Do you agree with this recommendation?</p>	Yes	<p>In the front and back of the vehicle and displayed in a prominent location.</p>

Question	Yes/No	Comments
17. The draft statutory guidance recommends that all licensing authorities should require drivers to undertake safeguarding training as a condition of licensing (paragraph 2.72). Do you agree with this recommendation?	Yes	Already required by NTC
18. The draft statutory guidance recommends that all licensing authorities should consider whether an applicant for a licence is able to communicate in English orally and in writing with customers (paragraph 2.79). Do you agree with this recommendation?	Yes	Taking into account all appropriate equality legislation.
19. The draft statutory guidance recommends that licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area (paragraph 2.81). Do you agree with this recommendation?	Yes	NTC is in the process of formalising agreements to do this with neighbouring authorities.
20. The draft statutory guidance recommends that PHV operators (applicants or licensees) should be subject to a basic DBS check (paragraph 2.91). Do you agree with this recommendation?	Yes	
21. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles (paragraph 2.97). Do you agree with this recommendation?	Yes	
22. The draft statutory guidance recommends that PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the above register (paragraph 2.97). Do you agree with this recommendation?	Yes	

Question	Yes/No	Comments
23. The draft statutory guidance recommends that PHV operators should be required to provide to the licensing authority their policy on employing ex-offenders that will take bookings or dispatch vehicles as a condition of licensing (2.98). Do you agree with this recommendation?	Yes	
24. The draft statutory guidance that a PHV operator may not use a driver who does not hold a PHV licence (but may hold a PCV licence) to use a public service vehicle to carry out a PHV booking. This would be a condition of the operator's licence (paragraph 2.100). Do you agree with this recommendation?	Yes	This is an important change as these journeys are often made by vulnerable adults and children and should be driven by people who have undergone the Taxi/PHV driver checks.
25. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to record the information detailed in paragraph 2.101. Do you agree with this recommendation?	Yes	
26. The draft statutory guidance recommends that licensing authorities should carefully consider potential public safety benefits and potential privacy issues when considering mandating that taxis and PHVs have CCTV installed (paragraphs 2.104 to 2.109). Do you agree with this recommendation?	Yes	CCTV protects drivers and passengers so this could be worded in such a way that a licensing authority has to have a good reason not to make CCTV mandatory.
27. The draft statutory guidance recommends that CCTV recordings in taxis and PHVs should be encrypted and accessible only by licensing authority officials (if acting a data controller), the police or when subject to a data subject access request (paragraph 2.114). Do you agree with this recommendation?	Yes	

Question	Yes/No	Comments
28. The draft statutory guidance recommends that licensing authorities should consider licensing vehicles with an Individual Vehicle Approval certificate, even if the passenger capacity is unclear, but under the strict condition that the vehicle will not be used to carry more than 8 passengers (paragraph 2.118). Do you agree with this recommendation?	Yes	Already covered by NTC Policy.
29. The draft statutory guidance recommends that the Department for Transport should issue guidance on the assessment of previous convictions (paragraph 2.50). Do you agree with this recommendation?	Yes	
30. Annex A of the draft statutory guidance provides a list of offences to aid consistency in the 'fit and proper' assessment for licences. Do you think that the list provides enough detail to do this?	Yes	
31. Are there any offences that should be added to the list in Annex A?	No	
32. If you answered yes, please list the offence(s) and the period you consider appropriate to prevent the granting of a licence under most circumstances.	N/A	
33. Do you have data relating to alleged offences committed in licensed vehicles either against or by passengers? If you have and are prepared to share this with us please add to your response.	N/A	To be completed by officers.
34. If have any comments or other data that may be relevant to the Impact Assessment please provide this.	N/A	To be completed by officers.