

Gloucester City Council

Meeting:	Licensing and Enforcement Committee	Date: 16 March 2021
Subject:	Review the Hackney Carriage and Private Hire Licensing Policy and Hackney Carriage and Private Hire Licensing Procedures and Conditions Document (Gloucestershire's Common Standards Approach) Following the Published Department for Transport (DfT) – Statutory Taxi and Private Hire Standards	
Report Of:	Head of Place	
Wards Affected:	All	
Key Decision:	No	Budget/Policy Framework: Yes
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Appendices:	Appendix 1 - Department for Transport Statutory Taxi & Private Hire Standards	
	Appendix 2 - Draft Common Standards document for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire	
	Appendix 3 - Comparison Document between the DfT Standards and our current policy	

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To present the draft Common Standards for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire (following the publication of the Department for Transport (DfT) Statutory Taxi and Private Hire Standards) for approval by the Licensing and Enforcement Committee for consultation.

2.0 Recommendations

- 2.1 Licensing and Enforcement Committee is asked to **RESOLVE** that

The draft Common Standards for Hackney Carriage and Private Hire Drivers in Gloucestershire is approved for a 12 week consultation period.

3.0 Background and Key Issues

- 3.1 In July 2020, the Secretary of State for Transport issued a new set of 'Statutory Taxi and Private Hire Vehicle Standards' to Licensing Authorities aimed at safeguarding children and vulnerable adults.
- 3.2 The standards set out a range of measures to protect passengers and the Department for Transport required that each Licensing Authority reviewed their policies by January 2021 with a plan to implement the standards.
- 3.3 Licensing authorities have a legal duty under Section 177 of the Police and Crime Act 2017, to have regard to the new Statutory Standards, and are expected to publish their considerations and any changes to policies and procedures that stem from them.
- 3.4 Section 177 of the Policing and Crime Act 2017 enables the Secretary of State to issue statutory guidance to taxi and private hire licensing authorities as to how their licensing functions may be exercised for the protection of children and vulnerable individuals from harm.
- 3.5 The Department for Transport (DfT) published guidance entitled "Statutory Taxi & Private Hire Standards" and can be seen at **Appendix 1**.
- 3.6 The recommendations were designed to improve a Council's ability to:
 - (a) Check the suitability of individuals and operators to be licensed.
 - (b) Safeguard children and vulnerable adults.
 - (c) Interpret and implement the Immigration Act 2016.
 - (d) Interpret and implement Common Law Police Disclosure.
- 3.7 The DfT also recommended new conviction guidelines for the granting of driver licences and should all Councils adopt these guidelines then it would create a national standard across the industry in England and Wales. The creation of a national standard for the licensing of drivers will significantly reduce the risk of applicants simply applying to multiple Councils until they eventually get a licence. Should all Councils adopt the same standard(s) then this will not be possible.
- 3.8 Following the publication of the DfT standards, Gloucestershire Licensing Officers Group (GLOG) which consists of all the Gloucestershire Licensing Authorities collectively felt the best approach was to work together and set up a working group to develop and produce a County wide approach.
- 3.9 This was to ensure that the same standards applied throughout Gloucestershire regarding the licensing of drivers, operators and vehicles and enabling the Council's to set up agreements with the County Council, Gloucestershire Constabulary and agree Joint Authorisations for Officers to carrying out enforcement across the County.

- 3.10 Following the publication of the DfT standards the recommended requirements were put into a draft Common Standards document for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire. This document can be seen attached at **Appendix 2**.
- 3.11 Gloucester City Council already have a high standard when it comes to the licensing of drivers, operators and vehicles. The joint document incorporates further higher standards and focuses on the safeguarding of the travelling public.
- 3.12 A comparison document between the DfT Standards and our current policy requirements is attached at **Appendix 3**.
- 3.13 It was felt by the working group that the assessment of previous convictions in the DfT document was not clear enough and would not offer adequate guidance to Members, applicants and licence holders when faced with an application or review of a licence due to convictions.
- 3.14 The Convictions policy at Appendix B of the draft County document has been written by the working group. The working group took the proposed standards in the DfT Standards document, the Institute of Licensing's 'Guidance on determining suitability of applicants and licensees in the hackney and private hire trades' and current policies from the County and drafted a widespread document so that Members have extensive guidance to make decisions. It also lays out clear guidelines to licence holders and applicants and minimises the risk of deviating from the policy and facing appeals.
- 3.15 The DfT standards do however include a number of other considerations such as CCTV in licensed vehicles and wider enforcement matters. Although not included in this consultation, the licensing authorities in Gloucestershire will, in due course, undertake further consultation on these matters.

4.0 Social Value Considerations

- 4.1 There are no 'Social Value' implications arising out of the recommendations in this report.

5.0 Environmental Implications

- 5.1 There are no 'Environmental' implications arising out of the recommendations in this report.

6.0 Alternative Options Considered

- 6.1 No alternative options are proposed.

7.0 Reasons for Recommendations

- 7.1 Failure to have regard to the guidance issued under Section 177 would leave the Council in breach of a legal duty to do so.
- 7.2 Although it remains the case that the Council must reach its own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Standards might be drawn upon in any legal challenge to an authority's

practice, and that any failure to adhere to the Standards without sufficient justification could be detrimental to the authority's defence.

- 7.3 The implementation of these recommendations will improve public safety; safeguard children and vulnerable adults; and help create national standards across Gloucestershire and the industry.

8.0 Future Work and Conclusions

- 8.1 If the Common Standards document for Licensing Hackney Carriage and Private Hire Drivers in Gloucestershire is approved then a 12 week consultation will be carried out.

- 8.2 Any comments will be reported back to the Licensing and Enforcement Committee for final approval.

- 8.3 The Council will consult with:

- All current licence holders (drivers, operators and vehicles)
- Ward members
- Town/Parish Councils
- Authorities e.g. Gloucestershire Police

- 8.4 As this is a County Wide approach, this will be supported by press releases across the Councils in Gloucestershire.

9.0 Financial Implications

- 9.1 The recommendations have no impact on the Council's budgets

(Financial Services have been consulted in the preparation this report.)

10.0 Legal Implications

- 10.1 The Council has a legal duty, under section 177 of the Police and Crime Act 2017, to have regard for DfT recommendations.

- 10.2 Failure to adhere to the DfT Standards without sufficient justification could be detrimental to the authority's defence.

(One Legal have been consulted in the preparation this report.)

11.0 Risk & Opportunity Management Implications

- 11.1 The risk management implications for this report and Policies are as follows:-

- Hackney Carriage and Private Hire Policy is unfair or too prescriptive.
- Consultation inadequate.
- Not to follow the recommendations from the DfT.

12.0 People Impact Assessment (PIA):

12.1 The screen stage considered risks to customers in the areas of gender, disability, age, ethnicity, religion, sexual orientation or community cohesion. A further assessment will be conducted to consider any feedback from the consultation.

13.0 Other Corporate Implications

Community Safety

13.1 None

Sustainability

13.2 None

Staffing & Trade Union

13.3 None

Background Documents:

None