

Report to Cabinet

13 April 2022

Subject:	Outcome on the consultation for the Statutory Taxi and Private Hire Vehicle Standards
Cabinet Member:	Cabinet Member for Culture & Tourism, Councillor Danny Millard
Director:	Director of Borough Economy, Ms. Alice Davey
Key Decision:	Yes - The decision is significant in terms of its effect on communities living or working in Sandwell.
Contact Officer:	Service Manager, Regulated Services and Transformation Nicola Plant nicola_plant@sandwell.gov.uk Operations Manager, Tracy Hubball tracy_hubball@sandwell.gov.uk

1 Recommendations

- 1.1 That Cabinet receive the results of the consultation on the Statutory Taxi and Private Hire Vehicle Standards as detailed in Appendix 1.
- 1.2 That approval be given to adopt the proposed changes to conditions of licence as set out in Appendix 2 in line with the changes to the Draft Sandwell Private Hire and Hackney Carriage Licensing Policy.
- 1.3 That approval be given to adopt the proposed changes to the current policy as detailed in Appendix 3 and Appendix 4 which is the draft revised Sandwell Private Hire and Hackney Carriage Licensing Policy containing the proposed changes highlighted in yellow.
- 1.4 That approval be given to the implementation plan as set out in Appendix 5 outlining the approach and actions to be taken for



implementing the changes resulting from the adoption of the Draft Sandwell Private Hire and Hackney Carriage Licensing Policy.

- 1.5 That the standard relating to mandating the installation of CCTV in all licensed vehicles as a mandatory policy requirement is not adopted at this time, and that the current policy position of voluntary installation is maintained.
- 1.6 That approval be given to adopt the draft Data Processing Policy for NR3 (National Register for Revocations and Refusals of Licence) attached as Appendix 6.

2 Reasons for Recommendations

- 2.1 The Statutory Taxi and Private Hire Vehicle Standards were introduced to protect children (under 18) and vulnerable people as defined by Section 42 of the Care Act 2014. The guidance goes on to state that all passengers will benefit therefore the standards should be implemented unless there is a good reason not to do so. Licensing authorities are under a legal duty under Section 177 (1) of the Police and Crime Act 2017, to have regard to the Statutory Standards which means they should be rigorously considered in formulating policy.
- 2.2 The Standards recognise that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, however it should be noted that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice.
- 2.3 A consultation on the adoption of the standards was undertaken between December 2020 and March 2021. At a meeting of the Licensing Committee on 23 September 2021, the Committee considered the results of the consultation and supported the implementation of the proposed changes in principle with the exception of CCTV being a mandatory requirement in licensed vehicles. The reason for this was that there was no proven local need but agreed that should such a proven need arise in the future, that further consideration be given to such a requirement.



2.4 The Licensing Committee supported the adoption of the use of the NR3 register hosted by NAFN (National Anti Fraud Network) and the additional checks that could be made regarding whether an applicant had had a licence either refused or revoked by another licensing authority. By confirming that this new process will be adopted, the Council is required to have a policy that confirms how data requests from other authorities will be dealt with together with how the data from enquiries to other local authorities will be used. This should be in place prior to conducting any checks on the register and published on the Council’s webpages.

2.5 The Licensing Committee recognised that substantial changes would be required to the current Sandwell Private Hire and Hackney Carriage Licensing Policy and met to discuss these changes in detail together with the implementation plan detailing when these changes would come into effect on 24th February 2022.

3 How does this deliver objectives of the Corporate Plan?

	Best start in life for children and young people
	People live well and age well
	Strong resilient communities The Statutory Taxi and Private Hire Standards are aimed at safeguarding children and vulnerable adults. The Standards set out a range of robust measures to protect taxi and private hire passengers.
	Quality homes in thriving neighbourhoods
	A strong and inclusive economy
	A connected and accessible Sandwell Ensuring that residents are confident in using the vehicles and drivers licensed by Sandwell MBC to travel both inside and outside of the Borough safely.



4 Context and Key Issues

- 4.1 The Statutory Standards are looking to ensure that there are consistent standards in all licensing authorities and there is an expectation from the Department of Transport that these standards will be implemented unless there is a compelling local reason not to do so.
- 4.2 The current Private Hire and Hackney Carriage Licensing Policy was last approved in August 2018. It is good practice for Councils to review their policy on a regular basis or at least every five years. The new Statutory Taxi and Private Hire Vehicle Standards issued by the Department for Transport requires the Council, as the Licensing Authority, to have regard to this document and the Council's own Policy when making decisions on applications for all types of licences.
- 4.3 The Department for Transport ask, that in the interest of transparency, all licensing authorities should publish their consideration of the measures contained in the Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.
- 4.4 During a twelve week public consultation carried out from 21st December 2020 to 12th March 2021, 135 responses were received. Due to Covid 19, the consultation was carried out remotely, by means of a questionnaire that was hosted on the Council's website asking stakeholders if they were in favour of the changes that would need to be considered if the Statutory Standards were to be adopted. They were also given the opportunity to make comments on the possible changes. Rather than include all the comments individually, these comments have been broken down into themes but a full document containing all the comments is available from the licensing office.
- 4.5 The responses received have been broken down into groups and the breakdown of those groups is as follows:

Description of Group	Total No. for that group
Statutory Organisations	12
Charity and Other Organisations/Groups	12
Licensed Drivers and Operators	42



Residents/vehicle users	62
Schools and parents	7
Total Responses Received	135

- 4.6 Whilst a number of consultees responded that they were in favour of CCTV being installed in all licensed vehicles, there was no local evidence to support this need. It was therefore proposed not to adopt this standard, but to keep this standard under review and should evidence to the contrary be identified in the future, that this proposal would be reconsidered.
- 4.7 Some of the proposed changes will affect Section 7 – Private Hire and Hackney Carriage Determination of Matters Policy Guidelines. This section covers drivers who apply for licences that have convictions and the guidelines of if/or when that person may be considered suitable to hold a licence. As part of the consultation, it was agreed that Sandwell would not adopt any changes that gave a lower period for consideration of suitability to hold a licence. This will mean that some drivers may have to have their convictions reviewed when their licence is renewed. The proposed approach for implementation of the changes for both new and existing licence holders is detailed in Appendix 5.
- 4.8 A number of the changes in the Policy Handbook found at Appendix 4 will require a lead in time. These proposals are detailed in Appendix 5 which outlines the approach and suggested timescales envisaged for these changes.
- 4.9 The areas of the Private Hire and Hackney Carriage Policy that will be affected by the adoption of the Statutory Standards are as follows:
- Administration of the Licensing Regime and this includes, the policy, duration of licences and whistleblowing
 - Gathering and Sharing Information including the DBS service and levels and frequencies of checks, subscribing to and updating of the NR3 Register and sharing information with other agencies
 - Decision Making including training for Councillors, fit and proper test and convictions and rehabilitation periods
 - Driver Licensing including safeguarding and exploitation, criminality checks and language proficiency
 - Vehicle licensing including criminality checks for vehicle providers and the use of CCTV in licensed vehicles



- Private Hire Vehicle Operator Licensing including criminality checks for operators and booking and dispatch staff, record keeping and policies on employing ex-offenders
- Enforcing the licensing regime including authorisation of enforcement officers from other licensing authorities and suspension and revocation of driver licences.
- Advice and guidance for passengers on staying safe.

4.10 The key themes of the comments raised include:

- Additional costs which may be faced by the trade as a result of adoption of the standards, specifically around changes relating to DBS and CCTV.
- Concerns about fake documentation to evidence criminal records from countries where an applicant has spent 3 or more consecutive months outside of the UK. And that the time period should be greater than 3 months before this documentation is required.
- The type of language proficiency test that applicants would be required to undertake being relevant to the job type.
- That a language proficiency test for applicants was not necessary and could result in a shortage of drivers.
- For standards changes that relate to convictions, consideration should be given to the individuals circumstances, as people make mistakes or there may be mitigating circumstances which should be considered.
- That advisory information received from DBS should also be considered.
- That the Council should have an approved random drug testing approach for licenced drivers.

4.11 For the Council to implement the use of the NR3 (National Register for licence refusals and Revocations) national database, it is required to have a data processing policy and to sign a user acceptance agreement. The user acceptance agreement for the NR3 register will need to be approved by the Council's Monitoring Officer. The proposed data period for upload has been arrived at in Consultation with the Council's Information Governance Team and is in line with the Taxi Licensing Team's Data Retention Information Asset Register.



4.12 Licensing Committee met on 24 February 2022 to discuss the proposed changes and Committee were in support of implementation of the proposed changes to the Private Hire and Hackney Carriage Licensing Policy Handbook (Appendix 4).

5 Alternative Options

5.1 There are no alternative options given for consideration. Licensing Authorities have a legal duty under Section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards.

6 Implications

Resources:	The changes, if implemented, should not impact on staffing levels, costs or have any land or building implications.
Legal and Governance:	<p>All proposals and recommendations contained within the report comply with legislation as set out within the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states:-</p> <p>(1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence: Provided that a district council shall not grant a licence –</p> <p>(a) Unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or</p> <p>(b) To any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.</p> <p>(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.</p>



Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

(1) A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.

(2) Without prejudice to the generality of the foregoing subsection-

(a) a district council may require an applicant for a driver's licence in respect of a hackney carriage or private hire vehicle –

(i) to produce a certificate signed by a registered medical practitioner to the effect that he is physically fit to be the driver of a hackney carriage or a private hire vehicle; and

(ii) whether or not such a certificate has been produced, to submit to examination by a registered medical practitioner selected by the district council as to his physical fitness to be the driver of a hackney carriage or private hire vehicle;

(3) If any person knowingly or recklessly makes a false statement or omits any material particular in giving information under this section, he shall be guilty of an offence.

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

(1) Notwithstanding anything in the Act of 1847 a district council shall not grant a licence to drive a hackney carriage-

(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.



Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states:-

(1) Notwithstanding anything in the Act of 1847 or in this Part of the Act, a district council may suspend or revoke or (on application therefor under Section 46 of the Act of 1847, or Section 51 of this Act, as the case may be), refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of 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 the Act; or

(b) Any other reasonable cause.

Section 177 of the Policing and Crime Act 2017 which gives the Secretary of State power to issue guidance to Licensing Authorities in relation to “how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm”.

Deregulation Act 2015 which made significant alterations to the Local Government (Miscellaneous Provisions) Act 1976. Under these provisions, hackney carriage and driver’s licences are expected to be granted for a period of three years and private hire operators’ licences for a period of 5 years, although shorter periods can be specified by the Licensing Authority.

Immigration Act 2016 which introduced a requirement that all hackney carriage and private hire drivers, together with private hire operators, must demonstrate that they have the right to work and the right to remain in the UK.



	<p>Section 177 of the guidance makes it clear that the definition of “fit and proper” adds to and does not replace Justice Silber’s judicial definition of “fit and proper” in Leeds City Council v Hussain quoted in Rushcliffe v McCool and Cherwell v Anwar. It should be noted that the stator code compliments but does not replace a decision of the Administrative Court.</p>
Risk:	<p>n the event that the Council decided not to adopt all or part of the Statutory Taxi and Private Hire Vehicle Standards, the reasons for the decision would have to be published on the Council’s website of how it reached the decision.</p> <p>A decision not to adopt or maintain a position which already exceeds the standards would result in lowering of standards of public safety. The DfT Statutory Taxi and Private Hire Vehicle Standards were introduced to protect children (under 18) and vulnerable people. Therefore, in line with the consultation feedback no alternative options are being proposed.</p>
Equality:	<p>An Equality Impact Assessment has been undertaken. The consultation was on whether or not to adopt in part or as a whole the Statutory Taxi and Private Hire Vehicle Standards. The standards are not particular to any specific group. On this basis, there are no impacts that are specific to any or all protected characteristics.</p>
Health and Wellbeing:	<p>The adoption of the Statutory Taxi and Private Hire Vehicle Standards would protect not only children and vulnerable adults but the general public by raising awareness of how to make a complaint, ensuring that drivers have undergone more stringent checks before licences are issued and that those persons employed by operators at the bases have also received appropriate training and the ability to share via a secure website details of persons who have had their licences refused and revoked with other local authorities.</p>



Social Value	Hackney Carriage and Private Hire Licensing provide a service that allows people who wish to drive for a living to gain a licence and seek employment with operators in the Sandwell area. It also gives them the opportunity to set up their own business and offer employment in the Sandwell Borough
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7. Appendices

- Appendix 1 – Response Analysis
- Appendix 2 – Proposed Amended Conditions of Licence
- Appendix 3 – Current and Proposed Policy Wording
- Appendix 4 – Private Hire and Hackney Carriage Licensing Policy – The Policy Handbook including Statutory Standards
- Appendix 5 – Implementation Plan
- Appendix 6 – Draft Data Processing Policy for NR3

8. Background Papers

- Private Hire and Hackney Carriage Licensing Policy 1 August 2018
- Statutory Taxi and Private Hire Vehicle Standards
- Results of the Survey
- Summary of all comments in full
- Consultation Response Themes
- Guidance document on Adopting the NR3 Register issued by the Local Government Association and NAFN Data and Intelligence Services

