

**LICENSING COMMITTEE**  
**Tuesday 17 November 2020 at 7.30pm**  
**Zoom - Online**

This meeting is a virtual meeting which is being hosted on Zoom. Councillors and registered public participants will be sent access details nearer the date of the meeting.

Members of the public who wish to watch the meeting can do so via a livestream which will appear on the Council's YouTube page  
<https://www.youtube.com/user/HarlowCouncil>

**AGENDA**

1. Apologies for Absence

2. Declarations of Interest

Councillors' declarations of interest (if any) in relation to any matters on the agenda.

3. Minutes (Pages 2 - 3)

4. Matters Arising

5. Written Questions and Petitions

6. Committee Work Plan (Page 4)

7. Harlow Council Food Safety Enforcement Plan 2020/2021 (Pages 5 - 37)

8. Department for Transport Statutory Vehicles and Private Hire Standards  
(Pages 38 - 84)

9. References from Other Committees

Any references arising from meetings held after the publication of this agenda will be circulated separately.

10. Matters of Urgent Business

Such other business which, in the opinion of the Chair, should be received as a matter of urgency by reason of special circumstances to be specified in the minutes.

**MINUTES OF THE LICENSING COMMITTEE  
HELD ON**

8 September 2020

7.30 - 8.02 pm

**PRESENT**

**Committee Members**

Councillor Shannon Jezzard (Chair)  
Councillor Nancy Watson (Vice-Chair)  
Councillor Nick Churchill  
Councillor Michael Garnett  
Councillor Maggie Hulcoop  
Councillor Andrew Johnson

**Officers**

Chris Bennett, Principal Environmental Health Officer  
Emma Crouch, Corporate Support Officer  
Hannah Criddle, Governance Support Officer  
Michael Pitt, Environment and Licensing Manager  
Denise Westwood, Assistant FCilex

**11. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Lanie Shears.

**12. DECLARATIONS OF INTEREST**

None.

**13. MINUTES**

**RESOLVED** that the minutes of the meeting held on 7 July 2020 are agreed as a correct record and signed by the Chair.

**14. MATTERS ARISING**

None.

**15. WRITTEN QUESTIONS AND PETITIONS**

The question, together with the answer, is appended to the minutes.

**16. COMMITTEE WORK PLAN**

**RESOLVED** that the Work Plan was noted.

**17. HARLOW COUNCIL HEALTH AND SAFETY SERVICE PLAN 2020-2022**

The Committee received the Health and Safety Service Plan 2020-22.

**RESOLVED** that the Committee noted and approved the Health and Safety Enforcement Service Plan attached as Appendix A to the report.

**18. FEES AND CHARGES REVIEW**

The Committee received a report on the review of Hackney Carriage tariffs.

**RESOLVED** that the Licensing Committee recommend to Cabinet that the Hackney Carriage tariff schedule, attached as Appendix A to the report, be adopted.

**19. REFERENCES FROM OTHER COMMITTEES**

None.

**20. MATTERS OF URGENT BUSINESS**

Councillor Churchill noted that concerns had been raised that The Chequers pub had been ignoring Covid-19 guidance. Councillor Churchill sought reassurance that the Council and Essex Police were taking the situation seriously. Michael Pitt, Licensing and Environment Manager, confirmed the Council was aware of concerns that had been raised and had been investigating in liaison with Essex Police. Michael Pitt advised that actions within the Council's existing remit might arise dependent on any evidence obtained. However, the Committee was advised that Essex County Council was ultimately the responsible authority for the recently announced Public Health powers specifically related to the risk of transmission of Covid-19.

CHAIR OF THE COMMITTEE

## Licensing Committee Work Plan 2020/21

Tuesday 7 July 2020	Tuesday 8 September 2020	Tuesday 17 November 2020	Tuesday 19 January 2021	Tuesday 9 March 2021
Licensing Sub Committee Decisions 2019/20	Harlow Council Health & Safety Service Plan 2020/2022	Harlow Council Food Safety Enforcement Plan 2020/2021	Adoption of a Street Trading policy	Updating Hackney Carriage and Private Hire vehicle conditions
Licensing Team Enforcement Activity 2019/20	Fees and Charges Review (as required)	Department for Transport Statutory Vehicles and Private Hire Standards	Review Hackney Carriage byelaws (TBC with Legal)	Review of General Enforcement Policy for Environmental Health

**REPORT TO:** LICENSING COMMITTEE

**DATE:** 17 NOVEMBER 2020

**TITLE:** FOOD SAFETY ACT 1990 SERVICE PLAN 2020/21

**LEAD OFFICER:** MICHAEL PITT, ENVIRONMENT AND LICENSING MANAGER (01279) 446114

**CONTRIBUTING OFFICER:** SALLY HAGGERSTONE, PRINCIPAL ENVIRONMENTAL HEALTH OFFICER (01279) 446165

**RECOMMENDED that** the Committee:

- A Approves the Food Safety Act Service Plan attached as Appendix A to the report.

#### **BACKGROUND**

1. The Council has a statutory duty to enforce the Food Safety Act and in doing so to have regard to the Framework Agreement on local authority food law enforcement which constitutes statutory guidance issued by the Food Standards Agency (FSA). The Service Plan is produced in compliance with the Framework Agreement, and represents a team plan within the Council's own performance management framework

#### **ISSUES/PROPOSALS**

2. The Plan sets out:
  - a) Food safety objectives detailing the Council's responsibilities as set out in legislation, associated statutory codes of practice and national guidelines.
  - b) The current work programme within the service; and
  - c) The Council's policy on food safety, sampling, provision of information to business, investigation of complaints and allegations of Food Poisoning, response to Food Safety Alerts and infectious disease control.
3. The current Framework Agreement reflects an ongoing emphasis by the FSA on focusing interventions on high risk situations. This has meant the number of inspections required for a compliant programme has reduced in comparison with historical approaches. The Council has allocated its resources to reflect this.
4. Whilst there is discretion to increase activity above the requirements set by the Framework Agreement, the desirability of doing so is balanced by financial considerations and sensitivity to the additional burden on business which additional regulation might represent.
5. The plan as currently drafted is considered to represent the minimum practicable level of activity to fulfil the requirements of the Framework.
6. The FSA has modified the expectations of Food Safety Authorities in recognition of the burdens imposed by the COVID-19 pandemic.

## **MPLICATIONS**

### **Environment and Planning**

As contained within the report.

**Author: Andrew Bramidge, Head of Environment and Planning**

### **Finance (Includes ICT and Properties and Facilities)**

The service budget is set to meet the minimum required statutory service under the Framework Agreement. If any increase in the service provision was to be recommended this could only be implemented if the associated required increases in service budgets were incorporated in to the Councils annual budget setting process.

**Author: Simon Freeman, Head of Finance and Deputy to the Chief Executive**

### **Housing**

None specific.

**Author: Andrew Murray, Head of Housing**

### **Community Wellbeing (Includes Equalities and Social Inclusion)**

None specific.

**Author: Jane Greer, Head of Community Wellbeing**

### **Governance (Includes HR)**

The report and Plan effectively set out the Authorities response to its statutory duties.

**Author: Simon Hill, Head of Governance**

## **Appendices**

Appendix A – Harlow Council Environmental Health Food Service Plan 2019/2020

## **Background Papers**

The Framework Agreement on official feed and food law controls by local authorities

– <https://www.food.gov.uk/about-us/local-authorities>

## **Glossary of terms/abbreviations used**

FSA – Food Standards Agency

**Harlow Council**  
**Environmental Health**  
**Food Service Plan**  
**2020/2021**

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0.0 Introduction	<p>The Council is designated as a Food Authority under the Food Safety Act 1990 and as such has a statutory duty to enforce the Act.</p> <p>The Food Service Plan is dedicated solely to the food safety enforcement function. It covers all elements of food safety and hygiene for which Harlow Council has enforcement responsibility.</p> <p>This Service Plan has been produced in response to a requirement by the Food Standards Agency (FSA) in its <i>Framework Agreement on Official Feed and Food Controls by Local Authorities</i>. The FSA was established in April 2000 as an independent monitoring and advisory body in response to widespread public concern over a number of food safety issues. One aim of the FSA is to make food law enforcement more effective, efficient and accountable.</p> <p>The Service Plan sets out how Harlow Council will deliver the food safety enforcement function in accordance with current guidelines for the period 2020 to 2021. This document sets out the following:</p> <ul style="list-style-type: none"> <li>• food safety objectives detailing the Council's responsibilities as set out in legislation, associated statutory code of practice and national Guidelines;</li> <li>• the current work programme within the Service;</li> <li>• the Council's policy on food safety, sampling, provision of information to business, investigation of complaints and allegations of Food Poisoning, response to Food Safety Alerts and infectious disease control.</li> </ul>
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1.0 Service Aims and Objectives	<p>The Environmental Health Service is committed to protecting the public by ensuring a safe trading environment in Harlow.</p> <p>To achieve this, priorities are established by using a risk assessment approach. Activities relating to a wide range of food safety legislation include: inspections; sampling programmes; response to complaints; education/promotional campaigns and the provision of specialist advice to traders.</p>
1.1 Aim and Objectives	<p><b>Aim:</b></p> <ul style="list-style-type: none"> <li>• To ensure that food and drink intended for sale for human consumption, which is supplied, manufactured, produced, stored, distributed, handled or consumed within Harlow complies with the law, is free from contamination and is without risk to the health of consumers (people who work, live or visit Harlow).</li> <li>• The Environmental Health Service is committed to ensuring that satisfactory standards of food hygiene are practised and maintained.</li> </ul> <p><b>Primary Objectives:</b></p> <ul style="list-style-type: none"> <li>• To ensure the health and well-being of the public by promoting and enforcing safe standards of hygiene and food safety in the preparation, manufacture, storage, distribution, handling and sale of food in all relevant food premises in Harlow in accordance with the requirements of the Food Safety Act 1990, The European Communities Act 1972 and all regulations, orders, byelaws or other subsidiary legislation made there under.</li> <li>• To undertake an effective and planned programme of quality risk based food safety inspections of food premises (by qualified and suitably trained officers), to ensure compliance</li> </ul>

	<p>with food law and to minimise risks to health and safety;</p> <ul style="list-style-type: none"> <li>• To take appropriate enforcement action proportional to the risks involved and in accordance with the Council's Food Safety Enforcement Policy with due regard being given to the Primary Authority Scheme and guidance from relevant external bodies;</li> <li>• To monitor foodstuffs manufactured, imported, stored or on display for sale in Harlow, through a planned yearly sampling programme which includes imported foods. To carry out reactive sampling for microbiological examination;</li> <li>• To promote effective communication with consumers and businesses on food safety matters within Harlow;</li> <li>• To encourage, assist, and support food businesses/residents of Harlow by providing information, education, training and advice including allergen advice in accordance with the Food Information Regulations 2014;</li> <li>• To investigate all relevant complaints regarding premises, practices and food items in accordance with service customer care standards;</li> <li>• To investigate and control outbreaks of food poisoning and other food borne disease within Harlow and take appropriate action to prevent any recurrence;</li> <li>• To complete and submit timely, accurate statistical returns to the Food Standards Agency</li> </ul>
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	<p>requirements;</p> <ul style="list-style-type: none"> <li>• To actively support Essex Food Liaison Group and its sub groups;</li> <li>• To carry out the activities in this Service Plan with an educative approach where possible, dependant on available resources.</li> </ul>
1.2 Links to Corporate Objectives and Plans	<p>The Food Service along with all other Council services is included within the corporate planning process. This includes Corporate Plan 2020-2021, the Environment and Planning Service Plan and Individual Personal Performance Plans.</p> <p>For the purposes of the Food Standards Agency this document is referred to as the 'Food Service Plan'. Within the organisation of Harlow Council this plan would be referred to as a 'Team Plan'. The corporate hierarchy places this Team Plan between the Environment and Planning Service Plan and Personal Plans.</p> <p>Team Plans are used to develop the Council's Personal Performance Plans to assist in identifying key objectives for staff in the forthcoming year.</p> <p>All Service Heads as part of this process are required to produce an Annual Service Plan, which is presented to the Corporate Management Team. Performance indicator returns (both national and local) are reviewed annually.</p> <p>The Council has an agreed Corporate Plan that sets out how the Council is going to tackle local people's priorities and improve services.</p> <p>The Corporate Plan Priorities 2020-2021 are:</p>

	<ul style="list-style-type: none"><li>• More and better housing;</li><li>• Regeneration and a thriving economy;</li><li>• Wellbeing and social inclusion;</li><li>• A clean and green environment;</li><li>• Successful children and young people.</li></ul> <p>The Food Service contributes directly to the Corporate aims in the following ways:</p> <ul style="list-style-type: none"><li>• Food is a prerequisite of health. The safety, quality, and wholesomeness of food plays a key role together with nutritional issues, in maintaining and improving health;</li><li>• The Service focuses on protecting the public and promotes good quality food production in Harlow;</li><li>• By helping to create economic prosperity and sustainability ensuring a prosperous economic future for local business that can compete on a level playing field;</li><li>• By working in partnership with other agencies and services aimed at improving the quality of life, health, safety and well being of the citizens of Harlow;</li><li>• Providing life-long learning through, where resources are available, advice to business and dissemination of information to consumers, enabling everyone to make informed choices about the products they choose to buy;</li><li>• Reducing crime through the investigation of service requests and proactive inspection;</li><li>• The Service proactively aims to deliver health information and education to the community</li></ul>
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	<p>where resource permits;</p> <ul style="list-style-type: none"><li>• Food Business Operators are consulted and involved concerning inspection of their properties. The Service continually strives to keep businesses and industry updated on the issues that act as interfaces between the Council and themselves, through statutory promotions and specific mail shots.</li><li>• A risk based approach to enforcement results in a lean service which thus ensures value for money in meeting statutory requirements.</li></ul>
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<p>2. Background</p> <p>2.1 Profile of Harlow</p> <p>2.2 Organisational structure</p>	<p>Harlow is almost entirely an urban area surrounded by rural areas controlled by Epping Forest District Council and East Hertfordshire District Council.</p> <p>As a new Town, the majority of its buildings and infrastructure are post 1947. There are a few small pockets of older development most notably the area known as Old Harlow. The 2011 Census of England and Wales confirmed that Harlow's population was 81,944. The town's population is estimated to rise to 89,720 by 2021. Harlow is a multi-cultural community with one of the highest percentages of ethnic minorities in Essex.</p> <p>The town is segregated into residential and commercial/industrial areas. The industrial areas employ large numbers of people, a significant number of whom travel from outside Harlow. The London to Cambridge railway line and M11 motorway both pass through the district, providing good communication links with London, M25 and Stansted Airport.</p> <p>The Food Service forms part of the Environmental Health Service that is managed by the Environmental Health Manager, who in turn reports to the Environment &amp; Licensing Manager. The Environmental Health Service is part of Environment and Planning. (Environmental Health, Licensing, Streetscene, Energy and Emergency Planning, Planning and Building Control, Properties and Estates)</p> <p>The management structure is available on the following link:</p> <p><a href="https://www.harlow.gov.uk/your-council/council-structure">https://www.harlow.gov.uk/your-council/council-structure</a></p> <p>The Food Service is a function of the Environmental Health Commercial Team which consists of: 1 Environmental Health Manager, a small proportion of whose time is undertaking Commercial duties, 1 P.T Principal Environmental Health Officer (PEHO), 1 full time Senior Environmental Health Officer (SEHO), 1 P.T SEHO's, ( and 1 vacant post SEHO) and 1 PT Administration / Technical Support Officer (TSO). The PEHO provides technical advice and support in complex cases, undertakes co-ordination, inspections of high risk premises and carries out monitoring on behalf of the Environmental Health Manager. The S/EHOs undertake the planned programmed inspection of food premises within Harlow; investigate a wide variety of complaints and service requests; provide advice</p>
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	<p>to consumers/businesses, enforcement activities and food sampling. The TSO provides technical and administrative support to the Team. A significant proportion of each officer's time is allocated to other functions such as health and safety enforcement, investigation of accidents, statutory nuisances and licensing issues. Further details on staff resource are available in section 4 of this Service Plan.</p>
2.3 The Scope of the Food Service	<p>The Service will:</p>
2.3.1	Maintain an up to date register of all food premises in Harlow;
2.3.2	Inspect all registered food premises on a risk based, rolling programme in accordance with Food Safety Act 1990, The European Communities Act 1972, Statutory Code of Practice (issued March 2017) and take enforcement action as necessary;
2.3.3	Carry out visits to, and food safety inspections of food premises as necessary within the plan period, including re-visits and investigative visits. (Note—Food Standards and Feedstuffs are the responsibility of the Essex County Council, Trading Standards Service);
2.3.4	Investigate food complaints and complaints about food premises (service requests);
2.3.5	Provide, where resources permit, advice and assistance to businesses and consumers on food related issues;
2.3.6	Receive and act on all Food Alerts / withdrawals and recalls issued by the Food Standards Agency;
2.3.7	Investigate all food within the district that might be contaminated and take necessary action. Seize, detain and arrange disposal, as necessary, unfit food;
2.3.8	Monitor the movement of unfit food into and out of Harlow;
2.3.9	Take action to close food premises found to present an imminent risk to health;
2.3.10	Identify and inspect premises processing, handling and storing meat products and preparations, and

	<p>prepare them for approval under the regulations;</p> <p>2.3.11 Identify and inspect premises processing, handling and storing dairy, fish and / or egg products and prepare them for approval under the regulations;</p> <p>2.3.12 Undertake a food sampling programme that takes account of current food issues. Participate in national and regional coordinated sampling programmes including imported foods;</p> <p>2.3.13 Comment, where resources permit, on proposed food legislation, codes of practice and other official documents as necessary;</p> <p>2.3.14 Provide appropriate export certification as requested by food companies in the District;</p> <p>2.3.15 Investigate all statutory infectious disease notifications and allegations of foodborne disease to establish any links with local food businesses or foodstuffs;</p> <p>2.3.16 Maintain an up to date and effective outbreak control plan;</p> <p>2.3.17 Provide advice, where resources permit, to the general public and local businesses on all aspects of food safety law and good practice, as required;</p> <p>2.3.18 The Food Service is also responsible in the majority of food premises for the enforcement of health and safety law, animal welfare and special treatment legislation. This is subject to a separate National intervention priority programme.</p>
2.4 Demands on the Food Service	<p>As at 1 April 2020 the Environmental Health Service's database identifies that it is responsible for enforcing Food Safety in <b>713</b> food premises within Harlow. According to the Code of Practice risk categories, these premises are broken down as follows;</p>

<u>Risk Category</u>	<u>Number of premises</u>	<u>Inspection Frequency</u>
A	2	6 Months
B	9	12 Months
C	100	18 Months
D	248	2 Years
E	339	AES / 3 Years
 New Premises not yet rated: 15		
As at 1 April 2020, food premises categories were:		
Number identified as Catering premises are	:	539
Number identified as Retail premises are	:	140
Number identified as Warehousing/Distribution are :		23
Number identified as Manufacturing / packers/importers premises are :		8
<b>TOTAL</b>	:	<b>713</b>
As at 1 April 2020 the number of approved premises are: 11		
Meat Products Premises - 1		
Minced Meat & Meat Preparations Premises – 2		
Cold Stores – 7		
Dairy ~Products- 1		
There are a number of mobile food businesses operating in the town, which comprise mainly ice cream and burger vans. In addition there are a number of food traders operating on Harlow Market that is open on Tuesday, Thursday, Friday and Saturday each week and a Car Boot Sale which usually occurs on Sundays during the summer period.		
The Environmental Health Service is based on the 3 <sup>rd</sup> Floor, Civic Centre, The Water Gardens, Harlow, Essex, CM20 1WG. The service can be accessed via:		

	<ul style="list-style-type: none"><li>• The internet</li><li>• Telephone (9am to 4.45pm Monday to Friday)</li><li>• Direct call/inspection/in person at the office or on site</li><li>• E-Mail/letters/correspondence.</li></ul> <p>The Service has an out of hours answer phone that directs callers to the Council's 24hour Central Control number in the event of emergencies. Control has arrangements for contacting Environmental Health staff 24 hours a day, 52 weeks of the year.</p> <p>Details of the services provided and how to contact us are also provided on the Council's web site.</p> <p>There are two languages other than English identified as being significant among food handlers and food business operators within the district. These are Bengali and Cantonese. The majority of food business operators are however, able to communicate in English or have somebody present at the premises that can interpret or translate. In any cases where there may be language difficulties the Service has the use of "Applied Language", a telephone translation service to which the Council subscribes.</p> <p>A number of advice notes and leaflets on food safety are also available in different languages from the Food Service / FSA.</p> <p>The Environmental Health Service has adopted the Central and Local Government Enforcement Concordat and is compliant with the Regulators Code.</p> <p>Harlow Council adopted a Food Safety Enforcement Policy in 2002, which has been agreed by Members based on the approved framework to ensure consistency across the UK. This policy is built on the principles of the European Concordat on enforcement, and gives priority to those principles.</p>
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	<p>The Service operates according to its documented Enforcement Policy which is available at the Environmental Health Service Offices and on The Environmental Health Services website. Any departure from the policy will be documented.</p> <p>All food law enforcement is carried out in accordance with relevant Food Safety Codes of Practice and other Official Guidance produced by the FSA and the Department for Business, Energy and Industrial Strategy (BEIS).</p> <p>Food business operators and the public are given the opportunity of consulting on our policies at any reasonable time.</p>
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3.0 Service Delivery	<p>3.1 Interventions / Inspection Programme</p> <p>The Food Service inspects, where resources permit, food premises for compliance with Food regulations according to risk as set out in the FSA approved Code of Practice. There are specified procedures and forms to be used by staff when enforcing legislation. In particular, the Code of Practice specifies a risk assessment scheme to be used to assess the risk associated with each food business and its priority for inspection.</p> <p>The use of the risk assessment scheme ensures that the highest priority is given to food manufacturers, caterers where there is significant non-compliance and premises that cater for vulnerable groups (children's nurseries, hospitals and residential/nursing homes).</p> <p><b>The Food service would normally aim to achieve 100% programmed interventions. However, following advice from the Food Standards Agency in response to the COVID-19 (SARS-CoV-2) pandemic, inspections are only being carried out on a risk rated basis in order of priority including urgent reactive work, following up on non-compliance and A, B and non-broadly compliant C rated premises.</b></p> <p><b>Contractors have been employed to inspect approximately 200 inspections, however the number of food complaints has increased and applications for registration of new food businesses has doubled in the 6 month period from April to September 2020 compared to the same period in 2019. The commercial team are responsible for COVID advice and enforcement in commercial businesses and for any COVID outbreaks in workplaces, therefore the team are under significant pressure, in an under staffed team.</b></p> <p>3.1.1 Inspections achieved</p> <p>The number of interventions / inspections achieved for the period 1 April 2019 to the 31 March 2020 = <b>310</b></p>
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	<p>The number of Food Hygiene Interventions / inspections (risk categories A to E) carried over from the last financial Year (2018/2019) is = <b>0</b></p> <p><b>Therefore, a high figure of 79.28% of all interventions / inspections due was achieved.</b></p> <p>The number of unprogrammed inspections (i.e. new premises / new operators) not inspected in the period 1 April 2019 to the 31 March 2020= <b>81</b></p>
3.1.2 Broadly compliant	<p>On the 1 April 2008, the Government introduced a new National Indicator: Food establishments which are broadly compliant with food law. Three of the six factors assessed within the risk assessment process during a food inspection are used to measure whether a business is “broadly compliant”. If an establishment scores 10 points or less in each of the level of compliance with hygiene requirements, structure and confidence in management, it is “broadly compliant”. As at 1 April 2020, the percentage of premises “broadly compliant” is <b>95.37%</b>. Premises with a food hygiene rating of 3 or more are broadly compliant.</p>
3.1.3 Inspections programmed	<p>The number of programmed food hygiene inspections for the period 1 April 2019 to 31 March 2020 = <b>310</b></p> <p>Including the carry over (not inspected and new premises) from 2018/2019 the total due for 2019/2020 is <b>310</b>.</p>
3.1.4 Enforcement	<p>In addition to the <b>310</b> inspections there will also be unprogrammed inspections (i.e new premises / new operators). The exact number is difficult to predict but the number of registrations received in the 6 month period from April to September 2020 had doubled in comparison to the same period in 2019. We estimate this figure to be around <b>120</b> premises. Therefore, total number of inspections to be achieved for 2020/2021 is <b>420</b>.</p> <p>The Food Service endeavours wherever possible to use informal means to achieve compliance with the law. Where there is imminent risk, flagrant breaches of the law, or persistent failure to maintain standards, the Service does not hesitate to use its full statutory powers in accordance with its</p>

	<p>Enforcement Policy. During the year 2019/2020 the following actions were carried out:</p> <table border="1"> <tbody> <tr><td>Warning letters</td><td>114</td></tr> <tr><td>Improvement Notices</td><td>3</td></tr> <tr><td>Simple Cautions</td><td>0</td></tr> <tr><td>Prosecutions instigated</td><td>1</td></tr> <tr><td>Prosecutions concluded</td><td>1</td></tr> <tr><td>Food seizures</td><td>1</td></tr> <tr><td>Voluntary surrender</td><td>1</td></tr> <tr><td>Remedial Action Notice</td><td>1</td></tr> <tr><td>Formal closures</td><td>0</td></tr> <tr><td>Voluntary closures / prohibition</td><td>4</td></tr> </tbody> </table> <p>Officers in the food team have been allocated responsibility for specific functions and responsibilities. Inspections of food premises requiring specialist input or knowledge are specifically allocated to these</p>	Warning letters	114	Improvement Notices	3	Simple Cautions	0	Prosecutions instigated	1	Prosecutions concluded	1	Food seizures	1	Voluntary surrender	1	Remedial Action Notice	1	Formal closures	0	Voluntary closures / prohibition	4
Warning letters	114																				
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Voluntary surrender	1																				
Remedial Action Notice	1																				
Formal closures	0																				
Voluntary closures / prohibition	4																				
3.2 Complaints	<p>One premises was prosecuted in 2019-2020. Agora Café Limited pleaded guilty to multiple food hygiene offences. The sentencing hearing has been adjourned twice and has been schedule for October 2020.</p> <p>The Food Service investigates complaints regarding premises, practices and food items, in accordance with the relevant BEIS / FSA / Code of Practice / Guidance and the internal approved food complaints procedure.</p> <p>Investigations into food complaints can give an indication of where the food supply chain has broken down. Such breakdowns may be one-offs or can indicate a problem, which, if left unattended, could have serious consequences. Food complaints are normally responded to within 5 working days or on the day of receipt in cases of significant risks to health.</p> <p>For the period 2019/2020 the food service received <b>110</b> complaints/cases.</p>																				

<p>3.3 Primary Authority Principle</p> <p>3.4 Advice to Business</p>	<p>It is estimated that approximately <b>130</b> complaints/referrals will be investigated during 2020/2021.</p> <p>The Primary Authority principle is supported by the Environmental Health Service, which undertakes its role in this respect in accordance with the guidance issued by the FSA and BEIS.</p> <p>In particular. The Food Service will:</p> <ul style="list-style-type: none"> <li>• Have regard to any inspection plans or advice it has received from any liaison with primary, home and/or originating authorities;</li> <li>• Having initiated liaison with any primary, home and/or originating authority, notify that authority of the outcome.</li> </ul> <p>There are currently no formal Primary Authority Agreements set up for the businesses in Harlow.</p> <p>Primary Authority gives companies the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance. It is the gateway to simpler, more successful local regulation.</p> <p>Whilst the Environmental Health Service utilises its powers to enforce the food legislation, it recognises that, where food businesses break the law, it may be due to ignorance rather than intent. As a consequence, it is the Food Service's policy to provide, where resources permit, advice to businesses in a number of different ways, including:</p> <ul style="list-style-type: none"> <li>• Advice is provided to existing or proposed food businesses, members of the public and other Council services on a reactive and proactive basis;</li> <li>• Advice is provided routinely during visits / inspections, but may also result from phone</li> </ul>
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3.5 Food Sampling	<p>enquiries or emails and letters received;</p> <ul style="list-style-type: none"><li>• Inspection reports contain a concluding section of advisory matters, which although not relating to specific legal requirements, contain advice on good management practice. Statutory requirements listed in the main body of the report are wherever possible supported with advice on how compliance can best be achieved;</li><li>• The Food Service as part of the Environmental Health Service uses the Council's website as a resource for the provision of information to businesses and the general public. Further information can be obtained from the Food Standards Agency website;</li><li>• Officers aim to give advice in accordance with recognised guidance and codes of practice.</li></ul> <p>The Environmental Health Service regards food sampling as an important area of work. Food sampling at point-of-sale can provide useful information about the microbiological fitness of food for sale within Harlow</p> <p>A food sampling programme has been devised for 2019/2020 but is also based on the Eastern Region / FSA / Essex Food Liaison group requirements. Local priorities have been included in this programme. It is anticipated that this programme may not take place this year, or at a reduced number due to the reallocation of officer time to the COVID response.</p> <p>Food sampling will be conducted where appropriate and in particular;</p> <ul style="list-style-type: none"><li>• Priority is given to sampling at food manufacturers/high risk premises based in Harlow;</li><li>• During the approval process of establishments and intermediaries;</li><li>• In response to complaints;</li></ul>
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3.6 Infectious Disease	<ul style="list-style-type: none"><li>• For identified planned internal, regional and national projects.</li></ul> <p>The Service has been allocated a sampling budget by Public Health England (PHE) the 2018/2019 period; this includes the full cost of laboratory analysis. Arrangements are in place with the PHE at Colindale to carry out the microbiological examination of samples.</p> <p>The number of samples taken for the year 2019/2020 was <b>134</b>. This includes food samples, water samples, swabs and cleaning cloths. Of the <b>134</b> sampled a total of 12 were classified by the PHE laboratory to be of a borderline or unsatisfactory microbiological standard. Food classified as borderline or unsatisfactory are rarely considered to be unsafe to consume. Follow up work and further sampling is undertaken where results are not of a satisfactory standard.</p> <p>Three regional studies were carried out in the sampling programme, studies on school dinner plates and trays, food containers and salad garnishes.</p> <p><b>Food composition and labelling are the remit of Essex County Council's Trading Standards Department.</b></p> <p>The above two specialist services are represented on the Essex Food Liaison Group.</p> <p>The measures to be taken to control the spread of infectious diseases are contained in various Acts of Parliament and their associated regulations. This legislation includes the control of food poisoning and food and water-borne diseases.</p> <p>During 2019/2020 the Service received <b>43</b> formal notifications of infectious disease, mostly food-borne. Notifications can include Salmonella, Cryptosporidium, Giardia, E coli O157 and Legionella. The source of these infections is often unknown for a variety of reasons. Some are attributed to travel abroad and many may have been acquired in their own home.</p> <p>In addition to the formally notified infectious disease cases the Service also investigates allegations of food poisoning. It is widely acknowledged that the majority of cases go unreported. However, a</p>
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	<p>single case may lead to the discovery of an outbreak if the person concerned is a food handler.</p> <p>The Food Service, in conjunction with Public Health England has a documented infectious disease Joint Plan that also includes the outbreak plan, which includes a detailed written procedure supported by reference material. The service also maintains a field case, which contain supplies of documents and sampling equipment necessary to investigate an outbreak.</p> <p>The resource requirement for this function for 2020/2021 is impossible to quantify. Outbreaks of this nature are infrequent, individual events. Should the need arise, staff from all disciplines within the Environmental Health Service would be expected to assist with an investigation. Lower priority work would be cancelled or postponed. The overall Service Plan acknowledges the need for the team to be flexible to accommodate the scale of any outbreak encountered.</p>
3.7 Food Safety Alerts / recalls / withdrawals	<p>This function is carried out in accordance with Food Safety Act 1990, Code of Practice and internal procedures to:</p> <ul style="list-style-type: none"> <li>• Identify and report food hazards/incidents;</li> <li>• Respond to Food Safety Incidents/Food Safety Alerts issued by the FSA.</li> </ul> <p>The FSA communicates any alerts via the FSA smart communication platform.</p> <p>Food Safety Alerts 'for action' received are always printed off, actioned immediately by the PEHO and circulated to all food officers, and subsequently filed. Any action taken is recorded.</p> <p>When appropriate a Food Alert for action is given absolute priority. In some cases this will require visiting multiple premises where the relevant food is likely to be stored.</p> <p>The Food Standards Agency hold details of emergency telephone numbers on which responsible officers may be contacted outside the Authority's normal working hours. This is linked to the Environmental Health Service out of hours scheme.</p> <p>The Environmental Health Service supports the work of the Chartered Institute of Environmental</p>

3.8 Liaison	<p>Health (CIEH). The Food Service undertakes its food safety functions in accordance with FSA guidance and statutory codes of practice in order to promote co-ordination, consistency, and good regulation amongst all local authorities.</p> <p>A number of arrangements have been made to improve consistency of enforcement with neighbouring authorities, health services and other agencies:</p> <ul style="list-style-type: none"> <li>• The Service attends and actively supports the Essex Food Liaison Group, the functions of which include: liaison with Public Health England (PHE) including preparation of the annual coordinated sampling plan; coordination of enforcement approach between authorities; peer review exercises and benchmarking exercises; and liaison with Essex County Council Trading Standards.</li> <li>• Investigation of suspected food poisoning outbreaks is carried out jointly or in close contact with Public Health England (PHE). An EHO also attends the quarterly meetings of the PHE Regional Liaison Group.</li> </ul> <p>The Service also advises and liaises on the following:</p> <ul style="list-style-type: none"> <li>• Public Heath England, Essex Trading Standards, OFSTED;</li> <li>• The Service will continue to maintain the arrangements for liaison with other services within the Council, including: Building Control, Licensing, Waste, Planning and Estates;</li> <li>• The service is routinely consulted on planning applications involving food businesses. In addition lists of all planning applications received by the authority are routinely reviewed by the Environmental Health Service. Comments and suggested conditions or informatics are returned wherever appropriate.</li> </ul>
3.9 Food Safety Promotion	The Environmental Health Service's education and promotion activities can have a direct impact on food safety. It is therefore committed to providing advice and information both to business and the public where resource permits, including:

- **Food Standards Agency campaigns** – This includes food safety week in June each year and other national campaigns such as promotion of the food hygiene rating scheme.
- **Tuck In pledge** - Harlow Council is participating in an Essex wide campaign in support of takeaway food establishments that take steps to improve the nutritional quality of their food. The campaign is based on the Department of Health responsibility deal initiative and is fully funded by Essex County Council. A total of 110 takeaway premises, all of which will have achieved a food hygiene rating score of 3 or more, have been offered the opportunity to participate in this pledge. As of October 2020 a total of 24 businesses have met the Tuck In and hygiene criteria.

The project has been branded as;



Businesses who sign-up to take the TUCK IN pledge will take steps to reduce the salt, sugar and fat content of the takeaway food served. As part of the TUCK IN pledge the business will receive free online Level 1 or Level 2 Nutrition training. Nutrition training helps staff to fully understand why reducing the salt, sugar and fat content of the food they serve is so important. Good training also encourages staff to go further with the healthy catering practices, which can support the growing demands of customers for alternative, healthier options.

Takeaway food businesses who have taken the TUCK IN pledge can display the TUCK IN logo on their premises.

In order to take the pledge a business must commit to making a continuous effort to reduce the salt,

3.10 National Food Hygiene Rating Scheme	<p>sugar and fat content of the food it serves. This includes:</p> <ul style="list-style-type: none"> <li>• reducing fats in fried food by using the correct frying temperature;</li> <li>• shaking excess fat from food after frying;</li> <li>• keeping oil fresh and using healthier oils for frying such as rapeseed or sunflower oil;</li> <li>• reducing the amount of sugar and salt used in cooking;</li> <li>• ensuring water and low/no sugar drinks are available;</li> <li>• offering grilled foods instead of fried;</li> <li>• increasing the amount of vegetables and fruit available on the menu;</li> <li>• providing packets of salt instead of free-running salt cellars;</li> <li>• always making sure smaller portion sizes are on offer.</li> </ul> <p>Businesses that meet the above criteria and sign up to the pledge will receive promotional materials and will be promoted on the Tuck In website.</p> <ul style="list-style-type: none"> <li>• <b>Ongoing Education</b> – This will take place during the planned food hygiene inspections for the period 2020/2021 and coaching visits, where resources permit, to implement Safer Food Better Business.</li> </ul> <p>In September 2011 the authority joined the Food Standards Agency; ‘National Food Hygiene Rating Scheme’ (NFHRS). Since the launch of the rating schemes we have seen an increase in the number of businesses who are engaging with the Council for advice on how to improve food hygiene and in turn improve their rating.</p> <p>Under the NFHRS food businesses are given a rating for their hygiene, ranging from 0 (urgent improvement necessary) to 5 (very good). The table below provides a breakdown of rated premises. Correct on the 1 October 2020;</p> <table border="1"> <thead> <tr> <th data-bbox="630 1299 1079 1347">Rating</th><th data-bbox="1079 1299 1342 1347">% of premises</th></tr> </thead> <tbody> <tr> <td data-bbox="630 1347 1079 1380">5 (very good)</td><td data-bbox="1079 1347 1342 1380">75</td></tr> </tbody> </table>	Rating	% of premises	5 (very good)	75
Rating	% of premises				
5 (very good)	75				

	<table border="1"> <tr><td>4 (good)</td><td>17.1</td></tr> <tr><td>3 (generally satisfactory)</td><td>5</td></tr> <tr><td>2 (improvement necessary)</td><td>1.1</td></tr> <tr><td>1 (major improvement necessary)</td><td>1.1</td></tr> <tr><td>0 (urgent improvement necessary)</td><td>0.4</td></tr> </table>	4 (good)	17.1	3 (generally satisfactory)	5	2 (improvement necessary)	1.1	1 (major improvement necessary)	1.1	0 (urgent improvement necessary)	0.4
4 (good)	17.1										
3 (generally satisfactory)	5										
2 (improvement necessary)	1.1										
1 (major improvement necessary)	1.1										
0 (urgent improvement necessary)	0.4										
3.11 Food Hygiene Training	<p>The scheme is a cost effective, well publicised and visible way of promoting food hygiene and empowering consumer choice by making available information to which the Public has a right to access under Freedom of Information Legislation. As well as promoting food hygiene it also gives Harlow Council a best value method for meeting public access obligations.</p> <p>The ratings are available as a link from the Councils website and direct on <a href="http://ratings.food.gov.uk">http://ratings.food.gov.uk</a> and every eligible business is issued with a window sticker displaying their individual rating.</p> <p>The Service promotes the food hygiene courses offered by accredited trainers including Harlow College.</p>										
4.0 Resources	<p>Food safety resources are currently allocated within the overall Environmental Health budget covering food safety, occupational health &amp; safety, pollution (noise, air, water, and contaminated land), Authorisation of premises under the Environmental Protection Act 1990, private sector housing and grants.</p> <p>A number of inspections were undertaken outside normal working hours due to the Code of Practice which requires local authorities to inspect premises during normal opening hours, which in turn will require evening and weekend inspections.</p> <p>No budget is separately allocated for prosecutions or legal action taken as a result of action under this service. Costs are requested from the court in any successful prosecutions taken, by the Council's Legal Service, who act on our behalf.</p>										

4.1 Staffing Allocation	<p>For the plan period 2020/2021 the available staff for this Service Plan includes:</p> <ul style="list-style-type: none"> <li>• 0.1 Environmental Health Manager</li> <li>• 0.8 FTE Principal Environmental Health Officer</li> <li>• 1.5 FTE Senior/Environmental Health Officer (S/EHO) - Fully competent for all food safety activities;</li> <li>• Approx 200 food inspections outsourced to competent contractors;</li> <li>• 0.5 FTE Technical Support Officer (TSO) - Not formally competent in food safety matters.</li> </ul> <p><b>This staffing allocation is not solely for this Service Plan. These officers also carry out duties enforcing health and safety at work, animal welfare and other licensing provisions, and the investigation of statutory nuisances under the Environmental Protection Act 1990.</b></p> <p>It has been estimated that the total officer time spent on the Food Service is <b>2.40</b> full time equivalent persons (FTE) on professional staff and <b>1.0</b> on administration support.</p> <table border="1" data-bbox="617 850 2094 1191"> <thead> <tr> <th data-bbox="617 850 1335 889"><u>Officer</u></th><th data-bbox="1335 850 2094 889"><u>FTE</u></th></tr> </thead> <tbody> <tr> <td data-bbox="617 889 1335 929">Environmental Health Manager</td><td data-bbox="1335 889 2094 929">0.10</td></tr> <tr> <td data-bbox="617 929 1335 969">Principal EHO</td><td data-bbox="1335 929 2094 969">0.50</td></tr> <tr> <td data-bbox="617 969 1335 1009">S/EHO</td><td data-bbox="1335 969 2094 1009">1.40</td></tr> <tr> <td data-bbox="617 1009 1335 1048">Contract Staff</td><td data-bbox="1335 1009 2094 1048">0.40</td></tr> <tr> <td data-bbox="617 1048 1335 1136">TSO/Administration (Not formally competent in food safety matters)</td><td data-bbox="1335 1048 2094 1136">1.00</td></tr> <tr> <td data-bbox="617 1136 1335 1191"><b>TOTAL</b></td><td data-bbox="1335 1136 2094 1191"><b>3.40</b></td></tr> </tbody> </table> <p>The PEHO and all Senior EHO's are appropriately qualified in accordance with the Code of Practice.</p> <p>The PEHO, S/EHO's, Contractor EHO's/Food safety officers, are fully competent to inspect all risk categories of premises as required by the Code of Practice and take formal food samples. The PEHO</p>	<u>Officer</u>	<u>FTE</u>	Environmental Health Manager	0.10	Principal EHO	0.50	S/EHO	1.40	Contract Staff	0.40	TSO/Administration (Not formally competent in food safety matters)	1.00	<b>TOTAL</b>	<b>3.40</b>
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<b>TOTAL</b>	<b>3.40</b>														
4.2 Competencies															

4.3 Staff Development Plan	<p>, S/EHO's, EHO's, are authorised to serve Hygiene Improvement Notices, detain and seize Food and the PEHO and S/EHO's are authorised to serve Hygiene Emergency Prohibition Notices.</p> <p>The Food Service continues to identify training and development needs with regular review meetings with individual staff. In addition, Officers are assigned special responsibilities to develop a specialism within the Food Service.</p> <p>Team meetings are held with the PEHO to discuss matters and issues of consistency arising under this Service Plan area.</p> <p>All EHO's that are corporate members of the Chartered Institute of Environmental Health (CIEH) are required to undergo at least 20 hours of Continuous Professional Development (CPD) per year. In addition, the Code of Practice requires food inspectors to have undergone a minimum of 10 hours food training per annum in accordance with FSA requirements. Authorised Officers must also complete the FSA Competency framework agreement. Whilst officers are responsible for monitoring the amount of training they have done in a year, the Service recognises this need and supports staff in achieving the minimum amount required by the CPD scheme. Officers with Chartered Status must complete 30 hours of CPD per year.</p> <p>Training needs are identified by examining:</p> <ul style="list-style-type: none"><li>• Operational requirement arising from the Place Service Plan;</li><li>• Individual needs highlighted at Personal Performance Plan review meetings;</li><li>• The introduction of new legislation/Code of Practice and FSA.</li></ul> <p>How these needs are met may vary, but the typical sources of training include:</p>
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3	<ul style="list-style-type: none"> <li>• Day release courses;</li> <li>• On the job training;</li> <li>• In house short courses;</li> <li>• External short courses and seminars.</li> </ul> <p>Training must be approved before it is undertaken and it is evaluated after the event. All training received will be documented as part of the Service's assessment competency.</p> <p>Personal Performance Plans (PPPs) are completed on a yearly basis by the PEHO with a six month review.</p> <p>It is not possible to determine training costs until the PPP process has been completed.</p>
5.0 Quality Assessment	<p>The Food Service is delivered within a documented quality system with strategies in place covering most areas of food safety. Within these strategies a documented system is in place for management monitoring of the quality, uniformity and consistency of enforcement.</p> <p>Within the framework of these documents the following activities are planned:</p> <ul style="list-style-type: none"> <li>• Internal Audits of:</li> <li>- Food Safety Inspections <ul style="list-style-type: none"> <li>a) Post Inspection review of case records and documentation</li> </ul> </li> </ul>

	<p>(100% of contractors' inspections are currently checked)</p> <p>b) Accompanied inspections</p> <ul style="list-style-type: none"> <li>- Food Complaints (service requests)           <ul style="list-style-type: none"> <li>a) food safety</li> <li>b) foreign bodies</li> <li>c) allegations of food poisoning</li> <li>d) food alerts</li> </ul> </li> </ul> <p>Formal enforcement activities, including;</p> <ul style="list-style-type: none"> <li>- Hygiene Improvement Notices</li> <li>- Hygiene Emergency Prohibition Notices</li> <li>- Prosecution Files.</li> <li>- Detention / Seizure / Voluntary Surrender cases.</li> </ul> <p>There are management systems which monitor the response times for complaints received (food &amp; hygiene complaints etc.). The target response times are 5 working days.</p>
6.0 Review	
6.1 Review against the Plan	<ul style="list-style-type: none"> <li>• The process of reviewing and updating the Standard Operating Procedures is underway on a priority basis.</li> <li>• The Authority has participated in the Essex County Council funded 'Tuck In' project to reduce</li> </ul>

<p>5</p>	<p>salt, fat and calories in takeaway meals. Visits to relevant businesses commenced in September 2015. Funding for this scheme (from Essex County Council) has been extended into 20/21.</p> <ul style="list-style-type: none"> <li>• The team has participated in FSA national rating consistency exercises.</li> <li>• The team has worked with Essex Trading Standards to produce an Allergens training day for food businesses at the Civic Centre.</li> <li>• The team continues to work collaboratively with the hospital to encourage good hygiene practices and to ensure the implementation of FSA guidance for healthcare and social care organisations to help them reduce the risk of vulnerable people within their care contracting listeriosis through the consumption of chilled ready-to-eat food.</li> <li>• Continual development of the Uniform, along with Enterprise to ensure it can meet all Service needs and to improve management systems.</li> <li>• The team has utilised the FSA toolkit for the internal audit of the food hygiene rating scheme against the brand standard.</li> </ul> <p>The Service Plan will be monitored to establish:</p> <ul style="list-style-type: none"> <li>• Inspections of premises against target;</li> <li>• The percentage of premises broadly compliant with food hygiene;</li> <li>• Number of food samples taken against target.</li> </ul> <p>In addition, the PEHO will evaluate:</p> <ul style="list-style-type: none"> <li>• Actual resource allocation versus projected allocation;</li> </ul>
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	<ul style="list-style-type: none"> <li>• Responses to complaints</li> <li>• Reactive work, formal actions and investigations.</li> </ul>
6.1.1 Performance Targets	<p>A key aim of The Service is to continually improve the quality, efficiency and effectiveness of its Services.</p> <p>Where the review process identifies areas for improvement or development, these will be adopted in accordance with current in-house documented procedure, the FSA Framework Agreement, Statutory Code of Practice and National guidance.</p> <p>For the period 2019/20 <b>79.28%</b> of all programmed and unprogrammed inspections were completed. The target is to achieve <b>100%</b>, as prescribed by the Food Standards Agency. For the period 2014/15 <b>97.93%</b>, for 2015/16 <b>95.61%</b> and for 2016/17 <b>96.67%</b>, and for 2017/2018 <b>99.36%</b>, and for 2018/2019 <b>99.32%</b></p> <p>The percentage of premises that are broadly compliant with food hygiene has remained consistently high at <b>95.65%</b> in 2015/16 to <b>96.23%</b> in 2016/17 to <b>94.67%</b> in 2017/18 <b>95.94%</b> in 2018/19 to <b>95.37%</b> in 2019/20.</p> <p>The percentage of samples taken against the target number set by PHE for 2019/20 is <b>100%</b> (excluding non-food swabbing). The high percentage figures represent the value this food authority places on the valuable intelligence that sampling provides.</p>
6.2 Areas for development	The following Service developments are planned for the period 2020/21:

	<ul style="list-style-type: none"><li>• Continue the review and updating of the Standard Operating Procedures and Policies for this Service.</li><li>• Continue to meet performance targets where possible, however due to difficulty in recruiting a full time SEHO post and the demands placed on the service by the COVID pandemic, aim to meet targets on a risk based priority basis.</li><li>• Adapt to any changes as a result of the FSA Regulating our Future review and any implications of Brexit <a href="https://www.food.gov.uk/about-us/regulating-our-future">https://www.food.gov.uk/about-us/regulating-our-future</a></li><li>• Follow guidance provided by FSA/APHA/DEFRA to ensure officers are competent to carry out duties such as the predicted increase in export health certificates as a result of Brexit.</li><li>• Continue with participation in the public health 'Tuck In' project.</li><li>• Review the existing team enforcement policy to ensure it reflects national and local policy and guidance.</li><li>• Develop the Idox Uniform Enterprise IT application. The Enterprise system is a management tool which helps ensure high quality service delivery.</li></ul>
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**REPORT TO:** **LICENSING COMMITTEE**

**DATE:** **17 NOVEMBER 2020**

**TITLE:** **DEPARTMENT OF TRANSPORT  
STATUTORY VEHICLE AND PRIVATE  
HIRE STANDARDS**

**LEAD OFFICER:** **MICHAEL PITT, ENVIRONMENT AND  
LICENSING MANAGER  
(env.health@harlow.gov.uk)**

**CONTRIBUTING OFFICER:** **CHRIS BENNETT, PRINCIPAL  
ENVIRONMENTAL HEALTH OFFICER  
(licensing@harlow.gov.uk)**

**RECOMMENDED** that the Committee:

- A** Notes the Statutory Taxi and Private Hire Vehicle Standards (2020) issued by the Department for Transport (DfT);
- B** Approves a full review of current policy and procedure to determine the necessary amendments required by the new standards;
- C** Agrees that that required changes identified by Officers as a result of the review are brought before the Committee on 19 January 2021.

#### **BACKGROUND**

1. The Council is responsible for licensing Hackney Carriage and Private Hire drivers, vehicles and Private Hire operators. In undertaking those responsibilities, the Council has regard to the legislation in place including case law, relevant guidance, best practice documentation and its own policies and procedures.
2. On 21 July 2020 the Department for Transport (DfT) published “Statutory Taxi and Private Hire Vehicle Standards.” The publication of these standards has been awaited for some time and follows an extensive period of consultation by the Department for Transport following a number of high-profile incidents and issues highlighting the risk to members of the public and to drivers. The standards reflect the significant changes within the industry in recent years, and lessons learned in respect of safeguarding children and vulnerable adults, and cases of child sexual abuse and exploitation (CSAE). The Policing and Crime Act 2017 made provisions for the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions, to protect children and vulnerable individuals who are over 18 from harm when using these services. Although the focus of the standards produced, is on protecting children

and vulnerable adults, it is expected that any passengers of these licensed vehicles will benefit from the recommendations, which aim to better regulate the taxi and private hire vehicle sector as a whole. It is felt that these issues are, in part, a result of the significant differences in standards applied to the licensing of drivers and vehicles across the country.

3. A copy of the new DfT standards is set out in Appendix A to the report.
4. The Council will need to review its taxi licensing policies and standards so that as a minimum they meet the standards outlined in the DfT document. However, any standards adopted must be appropriate for Harlow's local needs, and the Council will need to be transparent in explaining the reasons for the standards it adopts.
5. The standards in this document replace relevant sections of the Best Practice Guidance issued by the DfT in 2010. Where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance from 2010, the standards in this latest document will take precedence.

## **SIGNIFICANT CHANGES**

6. The Standards cover a wide range of issues, including driver, vehicle and operator standards. The main areas of the statutory standards cover the following;
7. Licensing Policies (paras 3.1 & 3.5) - Authorities should produce a 'cohesive policy document' that brings all policy and procedures together. When formulating policies, the overriding objective must be to protect the public. Policies should be reviewed every five years but should also consider interim reviews should there be significant issues arising in their area.
8. Duration of licences (para 3.6 & 3.7) - Issuing driver licences for more than a year. Risk can be mitigated for drivers by authorities undertaking regular interim checks (e.g. regular Disclosure and Barring Service checks). The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire operators.
9. Whistleblowing (para 3.8) - Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. Licensing Authorities should have effective internal procedures in place for staff to raise concerns and for them to be dealt with openly and fairly.
10. Criminal records checks (para 4.5) - Licensing Authorities should insist on licensed drivers signing up to the Disclosure and Barring Service's (DBS) On-Line Update Service. This allows the Licensing Authority to make checks at any time and at least every six months.

11. Common Law Police Disclosures (para 4.11) - Licensing Authorities should maintain close links with the police to ensure effective and efficient information-sharing procedures and protocols are in place and are being used (previously the Notifiable Occupation Scheme).
12. Licensee self-reporting (para 4.12) - Licence holders should be required to notify the issuing authority within 48 hours (currently drivers have to report within 72 hours) of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of any of the offences within this scope should result in a review of their licence.
13. Referrals to the DBS (para 4.14) - 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.
14. Working with the Police (para 4.17) - action taken by the Licensing Authority as a result of information received from the Police should be fed-back to the Police.
15. Sharing licensing information with other Licensing Authorities (para 4.20 & 4.21) - 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 (already requested as part of the application procedure). The National Anti-Fraud Network have developed a national register of taxi and private hire vehicle driver licence refusals and revocations (known as NR 3). Tools such as NR 3 should be used by Licensing Authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.
16. Overseas convictions (para 4.35) - Licensing Authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process.
17. Vehicle proprietors (para 7.2) - Licensing Authorities should require a basic disclosure from the DBS and that a check is undertaken annually.
18. Private Hire Vehicle operators and staff (para 8.2 & 8.8) – All operators should be subject to an annual basic DBS check. Ancillary staff that have access to booking records should also be DBS checked.
19. Multi-Agency Safeguarding Hub (MASH) (para 4.28) - All Licensing Authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). Obstacles in sharing information can be a barrier to effective safeguarding.
20. Criminal convictions and rehabilitation (para 5.16) - Annexed to the statutory guidance document is the Department's recommendations on the assessment of previous convictions. This is largely based on the Institute of Licensing's Guide that was adopted by Harlow Council in 2019.

21. Safeguarding awareness training (para 6.6) - Already mandatory in Harlow but the Council will need to review provisions of refresher training and how we deliver with Covid-19 restrictions in place.
22. Language proficiency (para 6.14 & 6.15) - All licence holders to demonstrate proficiency in English language. All drivers should be able to converse with passengers to understand destination, estimates of time along with other common passenger requests. A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation.
23. In-vehicle visual and audio recording (CCTV) (para 7.9) - All Licensing Authorities should consult 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 private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.
24. Joint authorisation of enforcement officers (para 9.2) - 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.
25. Enforcement (para 9.3) - Joint authority agreements between authorities are encouraged. Drivers should be made aware of relevant policies and repercussions.
26. Stretched Limousines (para 7.14) - Consideration should be given to their licensing.

## IMPLEMENTATION

27. It is important to note that it remains the decision of the Council as to whether or not the entirety of these standards should be implemented. A full review of the current policies as recommended will allow Members to make an informed decision on which parts should be adopted. Section 2 of the Standards gives some detail of the legal framework under which the Standards are published and the effect this has in terms of the Council's decision. Members' attention is drawn particularly to sections 2.5 to 2.9 and the definitions covering the term 'must have regard'.
28. Members should note that in Section 2.8 of the Standards it is stated:

*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 the Statutory Taxi and Private Hire Vehicle 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. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained*

*in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these. The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).*

29. At Section 1.3 the Standards say (sections highlighted in bold type are highlighted in the Standards, not by the author of this report):

*Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.***

30. It is clear there is an expectation that these new Standards are implemented. Setting the Standards does, however, remain the decision of the Council and where good reason can be found to depart from the new Statutory Standards it is possible to do so providing there is clear justification for the decision. The review that Officers recommend will detail these matters for consideration at the January committee. This will include any relevant information if there are proposals brought for consideration which depart from, or vary, the expected standards.

31. In its letter to Local Authorities introducing the Standards, the DfT made it clear that Local Authorities are expected to act upon the Standards without delay. However, since the publication of the Standards on 21 July 2020 there has been an upturn in cases of coronavirus both at a local and national level. In July it was hoped that the economy was on the cusp of commencing recovery and the aspiration was that businesses may be returning to some form of normality. However, more recently it has become clear that this is not the case and more restrictions have been placed on businesses and individuals. Councils have a key role to play both in terms of enforcing the Covid-19 restrictions imposed and supporting local communities. Resources to develop and implement new taxi policies may be restricted, as may be communities' abilities to respond to consultations on any draft proposals.

## **IMPLICATIONS**

### **Environment and Planning (Includes Sustainability)**

This much anticipated new guidance on vehicle licensing standards is expected to ensure more consistency in approach between licensing authorities and so is to be welcomed. Although the Council has in many ways been forward looking in adopting standards, there will nonetheless be significant work involved in meeting all requirements, and this summary the areas for forthcoming change provides a useful overview.

**Author: Andrew Bramidge, Head of Environment and Planning**

### **Finance (Includes ICT, and Property and Facilities)**

None specific at this stage.

**Author: Simon Freeman, Head of Finance and Deputy to the Chief Executive**

### **Housing**

None specific.

**Author: Andrew Murray, Head of Housing**

### **Community Wellbeing (Includes Equalities and Social Inclusion)**

As contained within the report.

**Author: Jane Greer, Head of Community Wellbeing**

### **Governance (Includes HR)**

The Council has a statutory obligation to protect the public and safeguard vulnerable adults and children when travelling in taxis and private hire vehicles, by ensuring that they are properly licensed by the Council.

Whilst the standards are only guidance, it is clear that the DfT intends it to carry significant weight, as paragraph 1.3 on page 4 states: "The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to."

Policy is only effective if it is administered properly. Therefore a Council should review and republish its Taxi and Private Hire Licensing Policy regularly, as there may be potential for decisions made in determining licensing applications that become the subject of judicial review or appeal. If the Licensing Policy is not credible it may be subject to a successful legal challenge.

**Author: Simon Hill, Head of Governance**

## **Appendices**

Appendix A - Statutory Taxi and Private Hire Vehicle Standards

<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehiclestandards>

## **Background Papers**

Working together to safeguard children 2018 (Department for Education)

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

## **Glossary of terms/abbreviations used**

CSAE – Child Sexual Abuse and Exploitation

DfT - Department for Transport

DBS - Disclosure and Barring Service

MASH - Multi-Agency Safeguarding Hub



Department  
for Transport

# Statutory Taxi & Private Hire Vehicle Standards

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## 1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) 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 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, 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 2014](#), 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.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 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](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. 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).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

## 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 document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle 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 'private hire vehicle' is used throughout this document to refer to all such vehicles.

## 2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) 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. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 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 private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle 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.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle 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 setting of the standards.

- 2.5 This document 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).
- 2.6 The document 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 private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 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 the Statutory Taxi and Private Hire Vehicle 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. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards 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.

### 3. Administering the Licensing Regime

#### Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a ‘fit and proper’ person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle 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 failings.

*“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.”*

- 3.3 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.”*

- 3.4 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 private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is 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.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

## Duration of licences

- 3.6 A previous argument against issuing licences for more than a year 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 for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one 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; they should not be issued on a 'probationary' basis.

## Whistleblowing

- 3.8 It is in the application of licensing authority's 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 and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and 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.

- 3.9 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 private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “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.”
- 3.10 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.
- 3.11 The Public Interest Disclosure Act 1998 (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. More information is available online for [employees](#) and [employers](#).

### **Consultation at the local level**

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle 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 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.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

### **Changing licensing policy and requirements**

- 3.14 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 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.
- 3.15** Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

## 4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

### The Disclosure and Barring Service

- 4.2 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.
- 4.3 Enhanced certificates with a 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. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an 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 [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

## The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 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 type of information; 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.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

## Common Law Police Disclosure

- 4.9 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 private hire vehicle drivers. 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.
- 4.10 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.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

## Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. 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. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

### **Referrals to the Disclosure and Barring Service and the Police**

4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **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 make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

4.15 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;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

4.16 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 [available](#).

## **Working with the Police**

- 4.17 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, **action taken by the licensing authority as a result of information received should be 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.
- 4.18 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.
- 4.19 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.

## **Sharing licensing information with other licensing authorities**

- 4.20 As has been stated elsewhere in this document, 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 and licensees should 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.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA’s Councillors’ [Handbook on taxi and private hire vehicle licensing](#) 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.*”. 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 private hire vehicle driver licence refusals and revocations (the register is known as ‘NR3’). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes 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.
- 4.23 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 private hire vehicle 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 practice.
- 4.24 If notification under paragraph 4.20 or 4.21 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. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it 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. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own polices.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

## **Multi-agency Safeguarding Hub (MASH)**

- 4.26 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) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) 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 Groups](#) 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.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

### Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual compliant, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the ‘balance of probabilities’ assessment that licensing authorities must take.

4.30 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.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all 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 private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 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.

4.33 In terms of investigating complaints 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 7.7 - 7.12.

### Overseas convictions

4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. 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; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more

4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).

4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

## 5. Decision Making

### Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle 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 when 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. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

### Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. 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 Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 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.
  - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

### The regulatory structure

5.6 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.

5.7 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 5.4. 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 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.

5.8 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.

5.9 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.

5.10 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.

5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities 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.

### **Fit and proper test**

5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle 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?**

5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) 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 take into consideration conduct that has not resulted in a criminal conviction.

### **Criminal convictions and rehabilitation**

5.15 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.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). 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 private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. 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 applicants are entitled to a fair and impartial consideration of their application.

## 6. Driver Licensing

### Criminality checks for drivers

- 6.1 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. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **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.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

### Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle 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.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers 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.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – ‘*Together, we can tackle child abuse*’ which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

### **‘County lines’ exploitation**

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 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:

- Children and young people travelling in taxis or private hire vehicles 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.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 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**

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

## 7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

### Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle 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 private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where an applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

### In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 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/private hire vehicle 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.

7.9 All licensing authorities should consult 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 private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 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 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 Wales](#) only 17 percent of victims report their experiences to the police, 28 percent 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.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle 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.

7.12 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 (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). 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.

7.13 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. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

### **Stretched Limousines**

7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. 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. It is the Department's view 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 these services from the scope of the private hire vehicle 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.

7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, 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.

## 8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

### Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence 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

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

### **Booking and dispatch staff**

8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.

8.8 Licensing authorities should be satisfied that private hire vehicle 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, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**

8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to 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. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.

8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.

8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence 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 private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

### Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle 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. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- 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;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 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 booking records should be retained for a minimum of six months.

8.15 Private hire vehicle 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.

### Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle 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 private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.**

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

## 9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed ‘fit and proper’ but does not ensure that those already licensed continue to display the behaviours and standards expected.

### Joint authorisation of enforcement officers

9.2 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. 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. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and 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' handbook](#).

### Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and 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.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). 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

9.5 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

9.6 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 private hire vehicle sector has been issued by the Home Office. 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.

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

9.8 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 of a 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.

9.9 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.

9.10 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.

## Annex – Assessment of Previous Convictions

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 private hire vehicle 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 consideration of their application.** Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. 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 against the person**

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

### **Sexual offences**

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, 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 where dishonesty is an element of the offence, a licence will not be granted until at least seven 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 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 five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period 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 seven 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 while 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 private hire vehicle 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

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

## Using a hand-held device whilst driving

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

## Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
<b>Unspent convictions</b>	Yes	Yes	Yes	Yes
<b>Unspent cautions<sup>1</sup></b>	Yes	Yes	Yes	Yes
<b>Spent convictions<sup>2</sup></b>	No	Yes	Yes	Yes
<b>Spent cautions<sup>1 &amp; 2</sup></b>	No	Yes	Yes	Yes
<b>Additional police Information<sup>3</sup></b>	No	No	Yes	Yes
<b>Barred list(s) Information<sup>4</sup></b>	No	No	No	Yes

1. Does not include 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 automatically disclosed on any level of certificate. Further guidance is available [the 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).

## Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles 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. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' 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

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), 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.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' 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 Office (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 tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); 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.

The [Data Protection Act 2018](#) 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 [guidance](#) on how data controllers can ensure compliance with these.

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 [guidance](#) 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.

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 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.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. 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. 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; the Information Commissioner’s Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

## Annex - 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 private hire vehicles e.g.:

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