

Licensing Committee Report

Ward(s) affected: All Wards

Report of Director of Service Delivery

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Taxi and Private Hire Legislation Update

Executive Summary

The Council in its role as the Licensing Authority for the hackney carriage and private hire vehicle trades has a paramount obligation to ensure the safety of the public.

There have been two important recent updates to peripheral legislation concerning a Licensing Authorities duty regarding the reporting of safeguarding concerns; and duties on both Licensing Authorities and the Licensed Trade concerning the carriage of disabled customers. This report seeks to brief Licensing Committee on the changes.

Recommendation to Committee

That the Committee notes the updates to legislation and actions taken to communicate changes to the Licensed Trade.

Reason(s) for Recommendation:

To ensure the Committee is briefed on legislative updates affecting the Taxi and Private Hire Vehicle Licensing function.

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

- 1.1 The purpose of this report is to brief the Committee on updates to two recent updates to legislation affecting the licensing of the Hackney Carriage and Private Hire trades.

2. Strategic Priorities

Updating the Policy will contribute to our fundamental themes as follows:

- **Homes and jobs** – supporting local businesses by ensuring they are aware of legislative changes.
- **Environment** – improving transportation in the Borough through a well-regulated private hire service.
- **Community** – tackling inequality in communities by ensuring customers with a disability are able to access the transport services they need.

3. Background

- 3.1 The Council in its role as the Licensing Authority for the hackney carriage and private hire vehicle trades has a paramount obligation to ensure the safety of the public. The current Hackney Carriage and Private Hire Licensing Policy approved in April 2021, reflecting Guidance issued by the Department of Transport in July 2020, introduced positive changes to the licensing function reflecting this obligation.

- 3.2 There have been two recent legislative updates which are relevant for both the Council and Licensed Trade which this report seeks to brief Members of the Licensing Committee upon.

- 3.3 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

This Act received Royal Assent on 31 March 2022 and places new duties on taxi and private hire vehicle licensing authorities in England only.

From 31 May 2022, if any licensing authority has certain road safety or safeguarding concern about a driver licensed by another authority, they must provide relevant information to the authority that issued the licence.

In turn, any licensing authority provided with such information must consider whether to suspend or revoke the driver's licence as a result of that information.

The Act defines a relevant concern as the driver having:

- committed a sexual offence (regardless of whether the person was charged with, prosecuted for or convicted of the offence)
- harassed another person
- caused physical or psychological harm to another person (regardless of whether the person was charged with, prosecuted for or convicted of the offence)
- committed an offence that involves a risk of causing physical or psychological harm to another person
- committed an offence under section 165, 168 or 170 of the Equality Act 2010 (regardless of whether the person was charged with, prosecuted for or convicted of the offence)
- did anything that constitutes unlawful discrimination or victimisation against another person for the purposes of the Equality Act 2010
- threatened, abused or insulted another person
- poses a risk to road safety while driving
- may be unsuitable to hold a taxi or PHV driver's licence for other reasons related to the safeguarding of passengers or road safety

Furthermore, attempting to or conspiring to commit the above offences also constitutes a valid safeguarding or road safety concern.

It is important to note that before 31 May 2022 any licensing authority could have already provided information/concerns about a licence holder to the home authority to act upon. The aim of this legislation is to improve co-operation between local authorities when responding to drivers and vehicles working outside of their licensed area.

This Act also creates a two-way flow of information, as it requires the licensing authority receiving the information not only to consider whether to suspend or revoke the driver's licence, but also within 20 working days of receiving the concerns, the licensing authority must inform the licensing authority that reported the concerns whether it has suspended or revoked the driver's licence (or intends to take this action) together with their reasons.

In due course, the Act will also require licensing authorities in England to input, into a central database, instances where the authority has refused, suspended, or revoked a taxi or PHV driver's licence because of certain safeguarding or road safety concerns.

The Act places a further requirement for a licensing authority to check the register before deciding whether to grant or renew a driver licence, and if there is a relevant entry, the authority will be required to contact the recording

authority to request the relevant information. The decision-making licensing authority is then required to have regard to the information provided when making their decision.

The recording and checking of refusals and revocation is already possible using the National Anti Fraud Network (NAFN) NR3 database and is something which Guildford has been undertaking for some time. This duty serves as a vital tool to ensure that drivers refused/revoked in one area are not applying to a different area to work.

3.4 The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022

The second Act came into force on 28 June and is designed to ensure that all disabled people can access transport services, free from the fear of discriminatory treatment or being faced with additional charges. It provides specific rights and protections for 13.7 million disabled people across the country so that they can travel with the confidence that they will receive the assistance they require when accessing taxi and private hire vehicle services.

The Act conveys several key actions which Licensing Authorities will need to take from 28 June:

- **Lists of Wheelchair Accessible Vehicles (WAVs)**
All licensing authorities now must maintain and publish a list of licenced taxis and PHVs they designate as being wheelchair accessible. This will identify the vehicles whose drivers are subject to the duties at section 165 of the Equality Act on providing assistance to wheelchair users and refraining from charging extra for this. Previously, whilst it was good practice to maintain a list of designated WAV list, it was not a legal requirement.
- **Exemptions**
Previously, drivers of designated WAVs may apply for an exemption certificate on medical grounds or where their physical condition makes it impossible or unreasonably difficult to perform the section 165 duties. As a result of the new Act, All taxi and PHV drivers may apply for an exemption certificate and notice on medical grounds or where their physical condition prevents them from performing the mobility assistance duties at sections 164a and 165.
The Department for Transport recommends that Authorities have an appropriate and transparent policy in place for inviting applications and then issuing exemption certificates and notices, where the Authority is satisfied that it is appropriate to do so on medical or physical grounds. It is

recommended that drivers provide evidence to support their application, preferably from an independent medical professional.

The Act also places new requirements for drivers and operators:

The previous legislation required drivers of designated wheelchair accessible vehicles to accept the carriage of wheelchair users, provide them with reasonable mobility assistance, and refrain from charging them more than other passengers. From 28 June, all taxi and PHV drivers and operators – regardless of whether the vehicle is wheelchair accessible – will be subject to duties under the Equality Act.

The main changes are as follows:

- Taxi and PHV drivers will be required to:
 - Accept the carriage of any disabled person, provide them with reasonable mobility assistance, and carry their mobility aids, all without charging any more than they would for a non-disabled passenger.
 - Provide any disabled passenger who requests it with assistance to identify the vehicle, at no extra charge.
- PHV operators will be required to:
 - Accept bookings for or on behalf of any disabled person if they have a suitable vehicle available.

These protections to all customers are much welcomed and now give a legal duty to all drivers to carry a passenger with any mental or physical impairment affecting their day-to-day activities and creates a specific offence of failing to do so.

There will be a number of actions for the trade and licensing authorities to take from 28 June, notably around the awareness of health conditions which are now covered. Not all disabilities are visible many disabled passengers show no outward sign of their condition, so drivers and operators will need to know how to speak to the passenger about their condition and ascertain their specific needs, without causing offence.

In the longer term, as the Council currently requires disability awareness training for drivers (which is included in the Level 2 Qualification requirement), consideration will need to be given as to whether this is sufficient to cover the duties under the new Act, rather than just covering wheelchair and assistance dog users where duties now go beyond this. It is envisaged that the next Policy

Review will follow the publication of the updated Best Practice Guidance which the Department for Transport recently consulted upon.

4. Consultations

- 4.1 These are changes in National legislation which have been introduced through Parliament via Private Members Bills.
- 4.2 Members of the licensed trade have been updated via the Council's Taxi and Private Hire Trade Newsletters.

5. Key Risks

- 5.1 There are no Key Risks associated with this report.

6. Financial Implications

- 6.1 The Council levies a fee for driver, vehicle and operator licences as per sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976. Fees are reviewed annually and calculated using an approved methodology in order to recuperate the Council's legally recoverable costs.
- 6.2 There are no financial implications associated with this report.

7. Legal Implications

- 7.1 The Council in its role as the Licensing Authority for the hackney carriage and private hire vehicle trades has a paramount obligation to ensure the safety of the public.
- 7.2 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 placed a new mandatory duty on Licensing Authorities to report and act upon relevant concerns involving licensed drivers. The Act will also require, in due course, to utilise and check a central database for recording licensing decisions.
- 7.3 The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 amends the Equality Act 2010 to introduce new, and amend existing, duties for local authorities and taxi and private hire vehicle drivers and operators. This Act aims to ensure that disabled people can use taxi and PHV services with confidence that they will not be discriminated against, and local authorities have an important role to play in ensuring the requirements are implemented effectively.

8. Human Resource Implications

- 8.1 The legislative update can be managed from within the current resource.

9. Equality and Diversity Implications

- 9.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 9.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 9.3 The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of the equality duty.
- 9.4 The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022 will ensure that disabled people can access transport services, free from the fear of discriminatory treatment or being faced with additional charges. It will provide specific rights and protections for 13.7 million disabled people across England, Scotland, and Wales so that they can travel with the confidence that they will receive the assistance they require when accessing taxi and private hire vehicle services.

10. Climate Change/Sustainability Implications

- 10.1 The Council's current Taxi and Private Hire Licensing Policy sets out a vehicle age and emissions criteria in order to help improve air quality in the Borough. There are no changes to this position.

11. Summary of Options

- 11.1 The report is presented to the Committee for information.

12. Conclusion

12.1 These two new Acts, whilst not providing much needed wholesale reform, provide must welcomed safeguards to all taxi users to ensure that standards can be maintained for the safety and accessibility of all users.

13. Background Papers

[Taxi and Private Hire Licensing Policy 2021](#)

[Statutory Taxi and Private Hire Vehicle Standards \(Department for Transport, 2020\)](#)

[Taxi and Private Hire Vehicle Licensing: Best Practice \(Department for Transport, 2010\)](#)

[Taxi and Private Hire Vehicle Licensing: Councillor Handbook \(Local Government Association, 2021\)](#)

[The Taxis and Private Hire Vehicles \(Safeguarding and Road Safety\) Act 2022](#)

[The Taxis and Private Hire Vehicles \(Disabled Persons\) Act 2022](#)

[Access to Taxi and Private Hire Vehicles for Disabled Users \(Department for Transport, 2022\)](#)

14. Appendices

None

Please ensure the following service areas have signed off your report. Please complete this box and do not delete.

Service	Sign off date
<i>Finance / S.151 Officer</i>	<i>1 July 2022</i>
<i>Legal / Governance</i>	<i>05 July 2022</i>
<i>HR</i>	
<i>Equalities</i>	
<i>Lead Councillor</i>	

<i>CMT</i>	<i>6 July 2022</i>
<i>Committee Services</i>	<i>29 June 2022</i>