

Report to:	Licensing and Regulatory Committee	Date of Meeting:	Monday 11 March 2024
Subject:	Revised Licensed Driver Convictions Policy		
Report of:	Assistant Director of Place (Highways and Public Protection)	Wards Affected:	(All Wards);
Portfolio:	Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	N	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

Summary:

To request members approval to the suggested changes to the driver convictions policy in line with national statutory standards.

Recommendation(s):

Agree to the proposed changes to the Council's current convictions policy

Reasons for the Recommendation(s):

Under the terms of the Policing and Crime Act 2017, the Department for Transport (DfT) has introduced Statutory Taxi and Private Hire Vehicle Standards for hackney carriages (taxis) and private hire vehicles. These standards were published in July 2020.

Whilst the focus of the statutory standards is on protecting children and vulnerable adults, all passengers will benefit from the recommended changes to the convictions policy contained in it.

Alternative Options Considered and Rejected: (including any Risk Implications)

The option not to implement the recommendations within the Statutory Taxis and Private Hire Vehicle Standards has been considered and rejected for the following reasons. The Council must have regard to statutory guidance and the statutory standards when undertaking its taxi and private hire vehicle licensing functions. The Department for Transport (DfT) has clearly stated that it expects the recommendations in the statutory guidance to be implemented and maintained, and for all Councils to follow it unless there is a compelling local reason not to do so. The Council could be open to challenge if the new statutory guidance is not followed without sufficient justification and could be considered to be putting children and vulnerable adults at risk of harm if it does not have

in place a recognised robust regime of testing the fitness of those working in the Hackney Carriage and Private Hire industry.

What will it cost and how will it be financed?

(A) Revenue Costs

None.

(B) Capital Costs

There are no direct capital implications associated with the recommendations in this report.

Implications of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets):	
The cost of the service is wholly recovered from the ring-fenced Taxi Licensing Trade Account (Revenue Budget BD12).	
Legal Implications:	
The Town Police Clauses Act 1847 and The Local Government (Miscellaneous Provisions) Act 1976 provide that a district council may set out criteria when undertaking their taxi and private hire licensing functions and may attach to the grant of a licence such conditions as they may consider reasonably necessary.	
Equality Implications:	
There are no equality implications.	
Climate Emergency Implications:	
The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	Y

Contribution to the Council's Core Purpose:

Protect the most vulnerable:

Strengthening of the criteria to be eligible to obtain a licence in Sefton. Supporting independent travel of vulnerable adults and protection of children travelling to school.
Facilitate confident and resilient communities: Commitment to increased protection offered by the introduction of the national standards offering greater confidence and protection in the use of Sefton licensed drivers.
Commission, broker and provide core services: Updating taxi licensing service provision in line with national standards.
Place – leadership and influencer: N/A
Drivers of change and reform: Updating taxi licensing service provision in line with national standards.
Facilitate sustainable economic prosperity: N/A
Greater income for social investment: N/A
Cleaner Greener: N/A

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD..7567/24....) and the Chief Legal and Democratic Officer (LD.5667/24....) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Trade representatives have been consulted and a summary of their views are included in the report.

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Appendices:

The following appendices are attached to this report:

Annex 1 – new convictions policy

Background Papers:

There are no background papers available for inspection.

1 Introduction/Background

- 1.1 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.
- 1.2 In July 2020 the Secretary of State for Transport published new Statutory Taxi and Private Hire Vehicle Standards to all licensing authorities. The Standards are aimed at safeguarding children and vulnerable adults. The standards were developed to set-out a range of robust measures to protect taxi and private hire vehicle passengers, particularly those most vulnerable.
- 1.3 The Standards are the result of extensive consultation with the police, the trade, the Institute of Licensing, and others and sets out the approach that Licensing Authorities should adopt when carrying out their functions. Under s.177(4) of the Policing and Crime Act 2017, the Council must have regard to this statutory guidance when undertaking its taxi and private hire vehicle licensing functions, it shall be followed unless there is a compelling local reason not to do so.
- 1.4 The following is an extract from the statutory standards:

“There is consensus that common core minimum standards are required to better regulate 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 for Transport (DfT) therefore expects these recommendations to be implemented and maintained unless there is a compelling local reason not to.

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.”

2 New National Convictions Policy

- 2.1 Members will recall a previous report on ‘Statutory Taxi Licensing Guidance for Licensing Authorities’ in relation to taxi licensing at the 7 September 2020 meeting with a further report brought to committee on 8 January 2024.
- 2.2 The statutory standards can be found here:
<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
- 2.3 Contained within the standards is a revised driver convictions policy which covers the following:
- Crimes resulting in death (not to be licensed – already in current policy)
 - Exploitation (new offence – not to be licensed)
 - Offences involving violence against the person (10 years disqualification – currently between 3 to 10 years)
 - Possession of a weapon (7 years – currently 3 to 5 years)
 - Sexual offences (not to be licensed – already in current policy)
 - Dishonesty (7 years – currently 3 to 5 years)
 - Drugs (10 years for supply, 5 years for possession – already in current policy)
 - Discrimination (new offence – 7 years)
 - Motoring convictions (no disqualification periods specified – same as current policy)
 - Drink driving/driving under the influence of drugs (7 years – currently 2 to 5 years)
 - Using a hand held device whilst driving (new offence – 5 years)
- 2.4 In summary, the Council’s current convictions policy already covers most of the offences included in the new standards but disqualification periods will be generally increased for all offences. New offences relating to exploitation, discrimination and using a handheld device whilst driving have been introduced.
- 2.5 Attached as annex 1 is the proposed new convictions policy.

3. Liverpool City Region (LCR) Authorities

- 3.1 All members of the LCR authorities have been working to standardise conditions across the region for many years.
- 3.2 Currently, Wirral, Liverpool & Knowsley have introduced the changes to their convictions policies brought about by the statutory standards without amendment. St Helens & Sefton are in the process of introducing them whilst Halton has yet to start the process.

4 Further Revisions to Existing Policy

- 4.1 Under Drink driving/driving under the influence of drugs, the following has been added:

“Any driver that fails a Police roadside or other test for drink or drugs will have their licence revoked.”

4.2 Under Motoring convictions, the following has been added:

“The Council will review the licence of any driver that reaches twelve points on their DVLA licence. Although certain motoring offences will normally lead to revocation or refusal, the Council will consider mitigating circumstances against any decision made including the length of any applicable disqualification period (via panel or committee) upon request.

Where an existing driver is affected by any amendments made to the policy on previous convictions, the Council will consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from the policy, the Council may consider doing so and will record the reasons for any deviation from current policy.”

4.3 A new section has been added;

“National Database of Suspensions & Revocations

When assessing an application, the Council will have regard to any information contained in the NR3 national database and may decide to refuse on the basis of any adverse information held by another local authority.”

5 Consultation

5.1 Consultation with trade representatives has taken place between December 2023 to February 2024. Although most of the changes and minor amendments have been agreed, some of the trade disagree with the introduction of the handheld device conviction (and subsequent 5 year disqualification) and have also suggested revisions to cover testing of blood samples taken by the Police following a roadside stop that results in no further action.

5.2 The amendments made by the wording in 4.2 above would allow the Council to adequately deal with isolated convictions with mitigating circumstances along with drivers that have been revoked yet produce a clear blood sample so these have not been included in the revised policy.

6 Relevant Risks

6.1 The Department for Transport expects the recommendations within the Statutory Taxis and Private Hire Vehicle Standards to be implemented unless there is a compelling local reason not to and there is a risk that the Council could be open to challenge if the new statutory guidance is not followed without sufficient justification.

6.2 Adhering to the new statutory guidance will mitigate against any challenge to the Council’s licensing regime. Failure to adopt the recommendations without good reason could put children and vulnerable adults at risk of harm should the Council not have in place a recognised robust regime of testing the fitness of those working in the Hackney Carriage and Private Hire industry.

7 Conclusion

7.1 It is recommended that the revised policy attached as annex 1 be approved by members with immediate effect.