



LICENSING COMMITTEE

Tuesday, 13 July 2021 at 6.30pm

Meeting to be held at Belle Vue Square Offices, Belle Vue Suite, Skipton

Committee Members: The Chairman (Councillor Myers) and Councillors Harbron, Heseltine, Ireton, Jaquin, Madeley, Moorby, Mulligan, Ogden, Solloway and Whitaker. Plus one vacancy (Independent).

Please note the following advice in advance of the meeting:

The Government temporarily removed the legal requirement for local authorities to hold meetings in person during the Covid-19 pandemic. All local authorities were given new powers to enable meetings to take place virtually. The Council's powers to hold remote meetings expired on 7 May 2021.

Whilst the return to face to face meetings provides significant challenges, the Council has undertaken a great deal of work to ensure that face to face meetings are delivered in a COVID safe environment.

Due to social distancing measures, spaces for public attendance are limited and so registration is essential to secure a place.

Everyone who attends this meeting will be required to wear a face covering, unless exempt.

Council staff, elected members and members of the public are urged to take advantage of the national 'next step safely' campaign and access a free, rapid lateral flow test in advance of the meeting:

<https://www.nhs.uk/conditions/coronavirus-covid-19/testing/> Please note that whilst this is advised, it is not a requirement for entry to the meeting.

Anyone displaying Covid-19 symptoms is asked not to attend.

For more information email committees@cravendc.gov.uk

Thank you,

Guy Close,
Democratic Services Manager

AGENDA

1. **Apologies for Absence** – To receive any apologies for absence.
2. **Minutes** – To approve the minutes of meeting held on 6 April 2021.
3. **Public Participation** – In the event that any questions/statements are received or members of the public attend, the public participation session will proceed for a period of up to fifteen minutes.
4. **Declarations of Interest** – All Members are invited to declare at this point any interests they have in items appearing on this agenda, including the nature of those interests.

(Note: Declarations should be in the form of:

a “**disclosable pecuniary interest**” under Appendix A to the Council’s Code of Conduct, or “**other interests**” under Appendix B or under Paragraph 15 where a matter arises at the meeting which relates to a financial interest of a friend, relative or close associate.

A Member of Council who has a disclosable pecuniary interest must leave the room and not take part in the discussion or vote. When declaring interests under Appendix B or Paragraph 15 of the Code, Members must move to the public seating area, not vote, and speak only if members of the public are also allowed to speak at the meeting.)

5. **Review of Statement of Licensing Policy**– Report of the Licensing Manager.

Purpose of Report – To present an amended Statement of Licensing Policy following public consultation.
6. **Statutory Taxi and Private Hire Vehicle Standards** – Report of the Licensing Manager.

Purpose of Report – To inform Members of the Taxi and Private Hire Vehicle Standards issued by the Department for Transport and seek approval of action proposed in response to its recommendations.
7. **Any other items** which the Chairman decides are urgent in accordance with Section 100B(4) of the Local Government Act, 1972.
8. **Date and Time of Next Meeting** – Tuesday, 5 October 2021 at 6.30pm.

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5 July 2021

LICENSING COMMITTEE

Remote Online Meeting

6 April 2021

Present – Councillors Myers (Chairman), Handley, Heseltine, Moorby, Mulligan, Solloway and Whitaker.

Officers – Solicitor to the Council (Monitoring Officer), Legal Services Manager, Licensing Manager, Democratic Services Manager and Democratic Services and Scrutiny Officer.

Apologies for absence were received from Councillors Harbron and Jaquin.

Councillor Madeley joined the meeting at 7.17pm and did not participate in any votes.

Start: 6.30pm

Finish: 7.22pm

The minutes of the Committee's meeting held on 5 January 2021 were confirmed.

Minutes for Report

LIC.238

CCTV

The Chairman introduced the Licensing Manager who submitted a report which proposed to review the introduction of mandatory CCTV in Licensed Vehicles due to the Covid-19 pandemic.

The Chairman invited Mr John Pickering (Hackney Carriage Driver) and Mr Gordon Thompson (Private Hire Driver) to address the Committee on the matter. Both Mr Pickering and Mr Thompson appealed to the Committee to delay the implementation date of the CCTV due to the current circumstances and the struggling trade.

The uncertainty of economic recovery due to the current climate was emphasised by the Licensing Manager, with this in mind the Licensing Manager invited Members to consider a revised implementation date. Several Members suggested a further review of the implementation date when hopefully the situation would have more clarity. After a lengthy discussion, Members agreed that in light of current circumstances that the implementation date should be delayed and reviewed in 6 months.

A recorded vote took place which was in favour of delayed implementation and review date.

Resolved – That, the implementation date of the mandatory CCTV is delayed and reviewed at the September Licensing Committee.

LIC.239

CCTV Hardship Policy

Due to the implementation date of the mandatory CCTV being delayed it was;

Resolved – That, the implementation of a Hardship Policy is revisited at the September Licensing Committee.

Licensing Act 2003-Review of Licensing Policy

The Licensing Manager submitted a report which sought Members' approval for the review of the Council's Licensing Policy. Members were reminded that the current statement of Licensing Policy was adopted on 2 August 2016. As a Licensing Authority, Craven District Council must determine and publish the Statement of Licensing Policy every 5 years. Members noted that the review of the Statement of Licensing Policy was due to commence in April 2020, however, due to the pandemic it was delayed.

The Licensing Manager set out the timetable which included a public consultation, approval of policy by Licensing Committee and Full Council final approval. The proposed consultation period was 12 April 2021 to 31 May 2021 and the Licensing Manager drew Members attention to the consultees detailed in the report.

A recorded vote took place which was unanimously in favour of the recommendations.

Resolved – (1) That, the report and draft policy are noted.

(2) That, draft revision of the Councils Licensing Policy is supported and the power to issue the same for public consultation is delegated to the Licensing Manager.

Chairman.

LICENSING COMMITTEE

13th July 2021



Review of Statement of Licensing Policy

Ward(s) affected: All

Report of the Licensing Manager

1. **Purpose of Report** – To present an amended Statement of Licensing Policy following a public consultation.
2. **Recommendations** – Members are recommended to:
 - 2.1 Consider the results of the public consultation exercise; and
 - 2.2 Approve the amended Statement of Licensing Policy attached to this report at Appendix A and recommend its adoption by full Council.

3. Report

Background

- 3.1 The Licensing Act 2003 (the 2003 Act) requires the Council, as Licensing Authority, to prepare and publish a statement of its licensing policy at least every five years. The current Statement of Licensing Policy expires on the 2nd August 2021.
- 3.2 At its meeting on the 6th April 2021, this Committee agreed a timetable for reviewing the Council's Statement of Licensing Policy and approved a draft revised statement for consultation purposes.

Report

- 3.3 The revised Statement was subject to a six-week public consultation between the 26th April 2021 and the 7th June 2021. This was undertaken by directly contacting the relevant responsible authorities and publishing details on the Council website and social media accounts. A full list of consultees is at Appendix B.
- 3.4 Two responses were received to the consultation (Appendix C and Appendix D) one from North Yorkshire Police and one from an individual.
- 3.5 The responses were considered by officers.

- 3.6 It is recommended the proposals of North Yorkshire Police are incorporated in to the Licensing Policy and the proposed amendments can be seen in the draft policy at Appendix A.
- 3.7 No amendment is proposed as a result of the individual response. The Committee will be aware that licensing and planning are two distinct and separate regimes. There is no obligation for applicants to approach one before the other. Both face their own challenges and applications are considered by their respective committees on their own merits. The Section 182 Guidance at paragraph 9.45 does provide some helpful guidance:

Considering cases where licensing and planning applications are made simultaneously

9.45 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

4. Financial and Value for Money Implications

Any costs associated with this policy review will be met within existing budgets.

5. Legal Implications

When preparing and determining its policy, the Council is exercising a licensing function and as such must have regard to the following:

- Promote the four Licensing Objectives
- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Statutory guidance issued by the Secretary of State under section 182 of the 2003 Act;

The 2003 Act; and

Give appropriate weight to the views of those persons/bodies listed in section 5(3) of the 2003 Act which it is required to consult before determining the Policy.

6. Contribution to Council Priorities

- 6.1 The Statement of Licensing Policy contributes towards the priority of supporting the wellbeing of our communities.

6.2 **Impact on the declared Climate Emergency** - no implications for the declared Climate Emergency.

7. **Risk Management**

7.1 There is a legal requirement to update the Statement of Licensing Policy by the 3rd August 2021 and failure to do so would invite legal challenge to decisions on applications/reviews subsequently made under the 2003 Act.

7.2 **Chief Finance Officer (s151 Officer) Statement** – no additional comments.

7.3 **Monitoring Officer Statement** – the recommendations within the report are lawful and within the powers of the Council.

8. **Equality Analysis**

An Equality Impact Assessment has been completed.

9. **Consultations with Others**

Outlined in the report.

10. **Background Documents**

None

11. **Appendices**

Appendix A – Amended Statement of Licensing Policy

Appendix B – List of Consultees

Appendix C – North Yorkshire Police Consultation Response

Appendix D – Member of Public Response

12. **Author of the Report**

Tim Chadwick, Licensing Manager

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Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.



Craven District Council

Statement of Licensing Policy 2021- 2026

Policy Period	5 Years
Approved by Licensing Committee	
Period of Consultation	
Adoption by Council	

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EXECUTIVE SUMMARY

Under Section 5 of the Licensing Act 2003, the Licensing Authority is required to prepare a statement of principles (Statement of Licensing Policy) that they propose to apply in exercising their functions under this Act. This process is to be repeated at least every 5 years. It was last reviewed in 2016.

This Statement of Licensing Policy is intended to aid applicants, residents, local businesses, the Responsible Authorities, Licensing Authority and any other persons in decision-making based on local knowledge and local people. Any decision taken by the Council in regard to determination of licences, certificates and notifications should aim to promote the licensing objectives which are: -

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

The policy covers the licensable activities as specified in the Act, which are: -

- Sale by retail or supply of alcohol;
- Regulated entertainment;
- Late night refreshment.

The council has the ability to grant licences for premises and certificates for club premises. It also grants personal licences and accepts temporary event notices.

When reading this policy it is important to remember that it relates to a wide range of activities and not just consumption of alcohol, for example theatres, cinemas, late night hot food takeaways and diverse cultural entertainments. The Council have a separate policy covering gaming and gambling activities.

The Statement of Licensing Policy takes account of the views of interested organisations, residents' associations, businesses and public bodies that have been consulted about licensing issues and this Statement of Licensing Policy. It does not, however, precisely reflect the views of all these bodies. Some views and comments have inevitably been incompatible with others and the Licensing Authority has attempted to balance them carefully to ensure that an appropriate Statement of Licensing Policy is implemented.

The Licensing Act 2003, Government guidance (issued under Section 182 of the Licensing Act 2003), Regulations and this Statement of Licensing Policy support a number of key aims and purposes. They are of vital importance and are the principal aims for all involved in licensable activities. They include:

- the introduction of better and more proportionate regulation, to give business greater freedom and flexibility to meet their customers' expectations,
- greater choice for consumers, including tourists, about where, when and how they spend their leisure time,

- the encouragement of more family friendly premises where younger children can go with the family,
- the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities,
- the regeneration of areas that need increased investment and employment opportunities that a thriving and safe night-time economy can bring,
- the protection of local residents whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

Enforcement of the Act is undertaken by the council. This policy describes the Council's Enforcement Principles and the principles underpinning the right of review.

1 INTRODUCTION

1.1 Craven District Council (The Council) is also the Licensing Authority ("the Authority") as defined under the Licensing Act 2003 ("the Act"). The Authority is responsible for the administration and issuing of Premises Licences, Club Premises Certificates, Temporary Event Notices, Provisional Statements and Personal Licenses in the District of Craven.

1.2 The Act makes provision for the licensing of individuals for the retail sale of alcohol (Personal Licences); the licensing of premises for the retail sale of alcohol, provision of regulated entertainment or late night refreshments (Premises Licences); the supply of alcohol or the provision of regulated entertainment in certain clubs (Club Premises Certificates); and the permitting of certain licensable activities on a temporary basis (Temporary Event Notices).

1.3 The licensable activities are as follows:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- The provision of late night refreshment; and
- The provision of regulated entertainment, which includes: -
 - An exhibition of a film;
 - A performance of a play;

- An indoor sporting event;
- A boxing or wrestling entertainment;
- A live music performance;
- Any playing of recorded music;
- A performance of dance.

1.4 There are a number of exemptions to the above, and details are contained in the legislation.

1.5 The Act specifies licensing objectives which the Authority's licensing function must promote, namely: -

- Prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance;
- Protection of children from harm.

1.6 These four objectives are the **only** matters that can be taken into account in determining an application. With equal weight given to each objective. Conditions can be attached to licences, in order to achieve these licensing objectives.

2 BACKGROUND TO THE STATEMENT OF LICENSING POLICY

2.1 The Authority seeks to encourage the provision of a culturally diverse range of regulated entertainment within the district and recognises that the entertainment and hospitality sectors are significant contributors to the local economy and attract tourists and visitors. These sectors have grown significantly in certain areas over recent years.

2.2 The Craven district has a residential population (approximately 55,000) whose rights the Authority has a duty to protect. Commercial operators have a legitimate expectation to contribute to and provide a vibrant and sustainable night time economy. Residents have an equal right to protection against any adverse effect arising from these activities.

2.3 The District's economy was estimated to value £1.5billion in 2017. The life expectancy for both men and women is higher than the national average, with levels of adult physical activity and hospital stays for alcohol related harm better than the England average.

2.4 The Council's Vision is: "For Craven to be a prosperous place with strong and vibrant communities, where all residents enjoy a good quality of life."

This statement of principles seeks to promote the licensing objectives within the overall context of the [Corporate Plan 2020 and beyond](#)

- 2.5 The Authority will focus on the impact of the activities taking place at licensed premises on members of the public living, working, visiting or engaged in normal activities in the Craven district. This focus may be on either an individual premise or premises collectively.
- 2.6 It is the role of the Authority to influence the balance of the interests of the public and sustainable growth. The Authority must consider the impact of nuisance, crime, anti-social behaviour, littering, the ability of the Police, the streets and public transport infrastructure to cope with the effects of licensable activities.
- 2.7 The Authority will work to ensure the safety of people visiting and working in licensed premises.
- 2.8 It is important to note that all the expectations within the Statement of Licensing Policy may not be appropriate for all sizes and types of premises.
- 2.9 The Policy intends to shape the future of licensing, entertainment and related social activities within the district and has been produced after consultation. See Appendix 4 for details of consultees.
- 2.10 It is important to note that licensing and planning are separate systems of regulatory control. Licensing committees are not bound by decisions made by the planning committee and vice versa.

3 THE POLICY

- 3.1 The “Act” requires a “Licensing Authority” to prepare and publish a Statement of Licensing Policy (“the Policy”) that sets out the principles the Licensing Authority will apply to promote the four Licensing Objectives when making decisions on any application under the Act.
- 3.2 This Policy was prepared in accordance with the provisions of the 2003 Act having had due regard to the Guidance issued under S182 of the Act (“the Guidance”). Where revisions are made to the Guidance there may be a period of time when this Policy is inconsistent with the Guidance. In these circumstances the Authority shall have regard, and give appropriate weight, to the revised Guidance in conjunction with this Policy.
- 3.3 This Policy shall be kept under review and the Authority may make any revisions to it as it considers appropriate. In any event the Authority is required to review their Statement of Licensing Policy every 5 years.

- 3.4** This Policy shall not undermine the right for any individual to apply for a variety of permissions under the Act and to have any such application considered on its individual merits. Similarly, the Policy shall not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act. Each application shall be treated on its own merit.
- 3.5** The Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless it is a key aspect of such control, and licensing law will always be part of a holistic approach to the management of the evening and night time economy in towns and city centres.
- 3.6** This Policy is intended to provide clarification on how the Authority will determine applications and reviews. The Authority will consider representations; however, it shall apportion the weight of the representation between those persons immediately affected by the premises and its operation, and those persons who may have a lack of knowledge of the area or of personal experience.
- 3.7** The Authority may depart from this Policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the four licensing objectives.

4 POLICY PRINCIPLES

- 4.1** In determining applications, reviews and enforcement under the 2003 Act the Authority shall take the following into consideration:
- its responsibility to provide a safe environment for all people within the District;
 - promotion and compliance of the four Licensing Objectives;
 - representations or complaints and evidence or supporting documentation provided;
 - S182 Guidance issued by central government to Authorities; and
 - Craven District Council's Statement of Licensing Policy.
- 4.2** The Authority will primarily focus on the impact of the activities taking place at the licensed premises and their effect on people living, working or visiting the area concerned.
- 4.3** Equally the Council also acknowledges the rights of businesses to operate their premises without unnecessary restraint, but this must

be

balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises.

4.4 The Authority may recommend actions as good practice. Applicants are asked to give these recommendations serious consideration as adoption of best practices may be considered in the investigation of complaints, if they arise, in connection with the premises in the future. In addition, “voluntary” conditions may be mutually agreed thus avoiding a formal review.

4.5 The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators. The Authority will have particular regard to the following provisions of the European Convention on Human Rights which is incorporated into the Human Rights Act 1998:

- Article 6: that in determination of the civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8: that everyone has the right to respect for his or her home and private life;
- Article 1 of the First Protocol: that every person is entitled to the peaceful enjoyment of his or her possession, including the possession of a licence.

4.6 The Authority acknowledges its duty under Section 17 of The Crime and Disorder Act 1998. The Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions and the need to do all that it can to prevent crime and disorder in its area.

Responsible Authorities

4.7 Responsible Authorities (RAs) are clearly defined under the Section 13 of the Act, as amended and a list of the RAs is contained in Appendix 3.

4.8 Where the Authority is also acting in its capacity as a Responsible Authority it will ensure that there is a separation of responsibilities within the Council to ensure procedural fairness and eliminate conflict of interests.

Planning (Development Control) and Building Control

4.9 The use of premises for the sale or provision of alcohol, provision of entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must be lawful under planning legislation. Planning permission is usually required for the establishment of a new premises or change of use of premises.

4.10 All premises to which an application is subject must normally have

planning permission and comply with all conditions of that planning permission, or be deemed permitted development.

- 4.11** The Council recognises that the existence of planning permission, building regulation approval or outside table licences must be properly separated from licensing applications to avoid duplication and inefficiency. Similarly, the existence of a Premises Licence or Club Premises Certificate shall not prejudice the consideration of any planning, building regulation approval or outside table applications. However, the Authority expects applicants to have obtained the appropriate consents or licences prior to operation.
- 4.12** Where premises have not obtained such consents or licences, they will be liable for enforcement action under the appropriate legislation. There may be circumstances when as a condition of planning permission; a terminal hour is set for the use of commercial premises. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their Planning Permission may be liable to enforcement action by the Planning Authority. Licensing applications therefore will not be a re-run of the planning application process and licensing decisions will not cut across decisions taken by the Planning Committee or permissions granted on appeal.

Anti-Social Behaviour

- 4.13** The Council wish to provide an environment that all people living, working and visiting Craven feel safe in and can equally enjoy, License holders are expected to assist the appropriate authorities in ensuring anti- social behaviour and disturbances are kept to a minimum.
- 4.14** Alcohol misuse is a strong contributory factor in a wide range of offences, including public order offences. Often anti-social in nature, these can involve: -
- drug or substance misuse and dealing;
 - street drinking;
 - drunken behaviour;
 - criminal damage and vandalism;
 - disorderly groups of people;
 - hooliganism, loutish, rowdy (fighting, shouting, swearing), threatening and abusive behaviour;
 - urinating/ vomiting in public;
 - dropping of litter.

- 4.15** Procedures to prevent anti-social issues are expected to be included within the Operating Schedule (Appendix 1) and examples include: -
- use of SIA staff and the wearing of high visibility clothing - provides reassurance to both premises users and general public;
 - policy on refusal of individuals or disorderly groups to a premise;
 - prevention of serving customers who are drunk, or of proxy sales by people attempting to purchase on their behalf;
 - use of non-glass drinking vessels and bottles for premises who are open beyond mid night, premises who have outside drinking areas, or during special, higher risk occasions e.g. screening of high profile football matches.
- 4.16** The Act is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from a licensed premise.

Nuisance and Environment

- 4.17** The Authority will consider the following steps the applicant has taken or proposes to take with regard to a licence application:
- to prevent noise and vibration nuisance arising from regulated entertainment e.g. installation of soundproofing, air conditioning, acoustic lobbies, sound limitation devices, closure of doors and windows etc.;
 - to prevent disturbance by patrons or staff entering or leaving the premises e.g. displaying prominent notices asking customers to leave quietly and not to slam vehicle doors, use of the internal PA system to make announcements to the same effect or instructing door supervisors to ask customers to leave the area quietly;
 - to prevent disturbance e.g. reduce volume of music or playing of quieter, more soothing music as part of the wind down period towards the end of trading session;
 - to prevent queuing or to minimise noise or disorder caused by queuing e.g. supervision of queues by door supervisors to keep noise to a minimum, no drinking should be allowed whilst queuing;
 - to prevent any impact of refuse or littering on the surrounding area e.g. use of flyers- only giving flyers to persons who are interested in the material, flyers should not be placed indiscriminately on vehicles, and provision for refuse by late night refreshment take away premises.
- 4.18** The Authority would expect to see such issues addressed within the Operating Schedule.

- 4.19** The Authority will consider routes used by customers when leaving specific premises and the likely impact on residents. People under the influence of alcohol are statistically more likely to be involved in criminal behaviour, including violence and damage to property.
- 4.20** The Act is not the primary mechanism for the general control of noise by individuals once they are away from a licensed premise.

Health

- 4.21** The following is obtained from the Annual Progress Report 2016 on the North Yorkshire Joint Alcohol Strategy 2014-2019. In North Yorkshire :
- around 1 in 7 adults abstain from alcohol but around 1% of adults (5340 people) are alcohol dependent;
 - around 26.9 % of the population who drink are estimated to be drinking at above the safe level of 14 units per week;
 - alcohol related hospital admissions are increasing year on year;
 - alcohol associated deaths are highest in Scarborough – 16.8 deaths per 100,000 population per year.
- 4.22** Alcohol is associated with crime, including domestic violence and sexual crime and features in anti-social behaviour in particular with over a quarter of incidents associated with alcohol in some areas of North Yorkshire.
- 4.23** The Authority supports the principle of reducing the harms from alcohol and will, where possible, work in partnership with various agencies to deal with both actual and potential harms from alcohol.
- 4.24** Further information on National and Local Statistics can be found using the following links:
- https://www.nuffieldtrust.org.uk/resource/alcohol-related-harm-and-drinking-behaviour-1?gclid=EAlalQobChMI-NyT8oXE5qIVibbtCh3mowXCEAAAYASAAEgKIO_D_BwE
 - <https://nypartnerships.org.uk/sites/default/files/Partnership%20files/Health%20and%20wellbeing/Public%20health/2016%20Alcohol%20Strategy%20Annual%20Report.pdf>
 - <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/drugusealcoholandsmoking/bulletins/opinionsandlifestylesurveyadultdrinkinghabitsingreatbritain/2017>

Cumulative Impact

- 4.25** The Authority will not take “need” into account when considering an

application, as this is a matter for planning and the market. However, it recognises that the “cumulative impact” of the number, type and density of licensed premises in a given area, may lead to problems of anti-social behaviour and nuisance, both outside and some distance, from the premises.

4.26 “Cumulative Impact Assessments” were introduced at Section 5A in the Licensing Act 2003 by the Policing and Crime Act 2017. Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. (Para 14.24 Section 182 Guidance)

4.27 Evidence that areas are becoming saturated with the number, type and density of licensed premises has to be gathered before a Cumulative Impact Policy (“special policy”) can be adopted. Examples of evidence that the Authority will consider include:-

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- statistics on local anti-social behaviour offences;
- health related statistics such as alcohol-related emergency attendances and hospital admissions;
- environmental complaints, particularly in relation to noise and litter;
- complaints recorded by the Council, which may include complaints raised by local residents or residents’ associations
- resident questionnaires;
- evidence from local councillors;
- evidence obtained through local consultation;
- trends in licence applications, particularly by types of premises and terminal hours;
- changes in terminal hours of premises.

4.28 A Cumulative Impact Assessment (CIA) may be published by a Licensing Authority to help it limit the number or type of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems undermining the Licensing Objectives.

4.29 The Authority will take the following steps into consideration when deciding whether or not to undertake a “Cumulative Impact Assessment”:

- identify concern about crime and disorder, public safety, public

nuisance, or protection of children from harm

- consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or to children;
- if such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
- identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise);
- consult with the Responsible Authorities and subject to the outcome of the consultation, include and publish details of the “special policy” in the licensing policy statement.

4.30 The effect of designating a “Cumulative Impact Area” is to create a presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, unless it can be demonstrated by the applicant that the operation of the premises involved will not add to the cumulative impact already being experienced.

4.31 The designation of a Cumulative Impact Area does not relieve Responsible Authorities, or any other person, of the need to make a relevant representation before the Authority may lawfully consider giving effect to its “special policy”. Responsible Authorities or any other person can make written representations maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information which has been before the licensing authority when it developed its Statement of Licensing policy.

4.32 While a “CIA” is in existence, applications will need to detail why the operation of the premises would not add to the cumulative impact being experienced. The Authority will review any “special policies” at least every 3 years to see whether they have had the effect intended and whether they are still needed.

4.33 “CIAs” may apply to the impact of a concentration of any licensed premises. When establishing the evidence base for introducing a “CIA”, the Authority will consider the contribution to cumulative impact made by different types of premises within its area, in order to determine the appropriateness of including different types of licensed premises within the “special policy”.

4.34 The Authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these have on the local community. It therefore also recognises that, within this “CIA”, it may be able to approve licences that are unlikely to add significantly to the saturation and

will consider the circumstances of each application properly and individually on its own merits.

- 4.35** There are currently no “CIAs” in Craven District. The Authority will consider the evidence available should a representation be raised.

Early Morning Restriction Orders

- 4.36** The Police Reform and Social Responsibility Act 2011 (“the PRSR Act”) gives the Authority the discretion to restrict sales of alcohol in the whole or part of their area by introducing an Early Morning Restriction Order (“EMRO”).
- 4.37** An EMRO can restrict the sale or supply of alcohol between the hours of midnight and 0600 hours to promote the licensing objectives e.g. to tackle high levels of alcohol-related crime and disorder, serious public nuisance and alcohol related anti-social behaviour which is not specifically attributable to specific premises.
- 4.38** The decision to implement an EMRO must be evidence based and the Authority must be satisfied that such an Order would be appropriate to promote the licensing objectives. Furthermore, the Authority shall consider the potential burden that would be imposed on premises licence/certificate holders.
- 4.39** An EMRO is a powerful tool and a very stringent approach in tackling issues. The Authority will first consider whether other measures may address the problems and achieve the same goal. These could include:
- the use of a Cumulative Impact Assessment (see 4.27-4.37 of this Policy);
 - taking a robust joint agency approach to tackling problem premises;
 - prior to reviewing a licence/certificate, meeting with the DPS and licence/certificate holder to ensure a Premises Improvement Plan is in place;
 - where this fails, reviewing Premises Licences/Certificates by any of Responsible Authorities or other persons;
 - using other mechanisms to control the cumulative impact, noise and anti-social behaviour;
 - introducing powers to designate parts of the local authority area as places where alcohol may not be consumed publicly;
 - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;

- provision of CCTV;
- provision of night marshals and street angels/ pastors;
- introduction of a late night levy.

4.40 The Authority will review any active EMRO's to ensure that it continues to be appropriate for the promotion of the licensing objectives. The applicant will be required to periodically submit evidence as part of this process to demonstrate that the EMRO is appropriate and achieving the goals and confirming that these cannot be achieved by alternative methods.

4.41 There are currently no EMROs in the Craven District.

Children

4.42 The Protection of Children from Harm is one of the four licensing objectives and the Authority recognises Children and Young People's Services at North Yorkshire County Council as the Responsible Authority.

4.43 The Council recognises its responsibilities under safeguarding legislation and guidelines.

4.44 The Authority shall not normally impose conditions requiring or prohibiting the admission of children to any premises believing this should remain a matter of discretion of the licence holder, having taken account of any risks in the operating schedule.

4.45 The Authority will impose conditions designed to protect children, where necessary.

4.46 Where alcohol is sold, including off sales, reference should be made in the operating schedule to plans for the control of underage drinkers.

4.47 Examples of premises where the introduction of additional controls are likely to be necessary are where:

- there has been a conviction for serving alcohol to a minor;
- the Police have objections on the grounds of existing drug problems;
- there is a strong element of gambling on the premises (not including the small number of amusement with prizes machines in traditional pubs and bars);
- the entertainment of an adult or sexual nature is provided.

4.48 The Authority may impose a complete prohibition on entry of children, or impose conditions on the licence, if it is appropriate.

4.49 Where there are events solely provided for children, for example an "Under

18's Disco" in a licensed premises, the Authority strongly advises that no alcohol is served at such events. In such cases, the management of the premises must ensure that measures are in place to prevent sales to underage persons.

- 4.50** Premises will not generally be expected to be open for normal trade until all under 18's have left the premises. The Authority would expect the premise to close for a short period of time e.g. 30 minutes to allow the dispersal of the under 18's. Where premises have more than one public area and are open for normal trade, whilst the under 18's event is still in progress, there must be a clear separation between the different clientele i.e. separate room and toilets.
- 4.51** Measures must be in place to prevent alcohol being brought onto those premises and to prevent under aged persons leaving and returning to the premises in order to consume alcohol in the vicinity of the premises.
- 4.52** The Authority will consider the conditions offered in the Operating Schedule. The applicant is required to describe the steps they intend to take to promote this Licensing Objective and highlight any adult entertainment or services, etc. that may give rise to concern in respect of children. However, where the applicant does not state the steps they intend to take to promote this Objective but does state that "no adult or similar entertainment shall take place on the premise", the Authority shall consider this restriction to be a condition on the Licence/ Certificate.
- 4.53** The 2003 Act, as amended by the Policing & Crime Act 2009, has introduced a number of mandatory conditions. One of these conditions provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with the recommendations given either by the British Board of Film Classification ("the BBFC") or by the Authority itself. The Authority has a procedure in place for the approval of unclassified films that includes conditions relating to the admission of children.

Controlled Drugs

- 4.54** It is recognised that the use and sale of controlled drugs can be associated with some licensed premises.
- 4.55** Documented cases of injury and death demonstrate the need for the control of controlled drugs in licensed premises. Drugs alter the way people behave which is why their distribution and possession is controlled by law. Controlled drugs are manufactured and supplied illegally and often vary in quality and strength, resulting in people taking them being at a significant increased risk. Controlled drugs usually involve or attract criminal involvement.
- 4.56** The Authority recognises that many premises already have good drug control procedures in place and have assisted the Police in the

detection of related crime. Licence holders must co-operate with any Police operation involving the control of drugs. SIA door staff and external CCTV can help stop drug dealers from passing on drugs during the queuing process.

- 4.57** The Authority will expect licence holders to take all reasonable steps to prevent the entry of drugs into licensed premises and take appropriate steps to prevent drugs changing hands within the premises.
- 4.58** The Authority expects licence holders to have undertaken training in drug related matters through a recognised provider and be able to demonstrate implementation of the principles contained in the “Safer Clubbing” guide issued by the Drug Prevention Advisory Service in partnership with the London Drugs Policy Forum.
- 4.59** Evidence of a controlled drug related problem on a licensed premise will require the licensee to produce a written drugs policy for approval by the Authority. This will be to further the crime prevention objective and to ensure public safety by controlling drug abuse.

Legal Highs

- 4.60** There is currently an increasing trend in the use of legal highs within the UK population. Symptoms arising from the use of certain “legal highs” mirror those associated with drinking excessive amounts of alcohol.
- 4.61** The Council will work with the appropriate agencies to reduce the problems associated with people supplying or using “legal highs”

5 LICENCES AND CERTIFICATES

Personal Licences

- 5.1** Providing an applicant has an approved qualification and does not have certain specified criminal convictions, the application would normally be granted.
- 5.2** The police may make objections on the grounds of a relevant or foreign offence. If an applicant has a relevant conviction the Police can oppose the application. If an objection is received a hearing must be held.
- 5.3** At any subsequent hearing the authority will consider carefully whether the grant of the licence will compromise the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that elapsed since the offence(s) were committed and any mitigating circumstances. The authority will only grant the application if it is satisfied that it will not undermine this objective.
- 5.4** Prevention of crime is an objective of the Act and an important

responsibility of the Authority under other relevant legislation involving crime and disorder.

- 5.5** The Policing and Crime Act 2017 gives licensing authorities the power to revoke or suspend personal licences with effect from 6th April 2017. This is a discretionary power exercised by the Licensing Committee or Sub-Committee under section 132A of the 2003 Act. The Committee have the ability to revoke or suspend a licence for up to 6 months. (Para 4.45 of Section 182 Guidance)
- 5.6** The Immigration Act 2016 amended the Licensing Act 2003 from 6th April 2017. For applications made after 6th April 2017, applicants who are subject to UK Immigration Control must be entitled to work in a Licensable Activity. Section 192A of the Licensing Act 2003 defines the “entitlement to work” in a licensable activity. The requirements are not retrospective.
- 5.7** Licensing authorities are required to notify the police when an applicant is found to have an unspent conviction for a relevant offence defined in 2003 Act or for a foreign offence. The police have no involvement or locus in such applications until notified by the Licensing Authority. Civil penalties received after 6th April 2017 for immigration matters are treated in the same way as relevant offences.

Premises Licences

- 5.8** New applicants and existing licence/certificate holders are encouraged to take heed of the information contained within this Policy. To avoid potential representations, which generally delay an application, the Authority strongly recommends that prior to submitting their application, applicants consult all Responsible Authorities, in particular North Yorkshire Police and the Council’s Environmental health team.
- 5.9** The Premises Licence/Certificate application outlines the operating conditions and the Operating Schedule that will form the basis of conditions that will be attached to the Licence/Certificate. The Authority shall expect the applicant to have carefully considered the promotion of all four Licensing Objectives in their Operating Schedule.
- 5.10** The Council will seek to encourage and promote festivals, carnivals and similar events in the district to promote a varied and vibrant culture.
- 5.11** The Authority recognises that large-scale events may attract large crowds and the risks to public safety, crime and disorder and public nuisance are likely to increase with these numbers. Event organisers are recommended to consult with Responsible Authorities and the Safety Advisory Group in good time to discuss the Operating Schedule and any potential issues well before an application is submitted.

- 5.12** The Operating Schedule is a key part of the application form whereby applicants may volunteer appropriate conditions to demonstrate compliance with the licensing objectives by describing the steps they intend to take to promote these objectives. These volunteered conditions will then form conditions on the Premises Licence or Certificate.
- 5.13** The Authority encourages applicants and existing operators to plan ahead to meet their legal responsibilities under the Equality Act 2010. In addition, applicants are expected to include positive proposals in their Operating Schedule on how they will manage any potential risks.
- 5.14** Premises Licence and Club Premises Certificate applicants may wish to refer to their Fire Safety and Health and Safety risk assessments that they will have conducted. Applicants are advised to seek the views of professional experts in relation to the preparation of these risk assessments. Where a maximum occupancy is set, applicants are advised to have an appropriate method in place to monitor the numbers of people entering and exiting the premises, thereby ensuring the maximum occupancy is not exceeded.
- 5.15** In completing their Operating Schedule, the Authority suggests that an applicant considers the issues detailed in Section 6 of this Policy and Appendix 1. This list is not exhaustive and advice can be obtained from the relevant Responsible Authorities. Applicants are reminded to contact the relevant Responsible Authorities to seek their expert advice **before** an application is submitted to the Authority.
- 5.16** Where an application is for a vessel, the Authority strongly recommends advice be sought from the Maritime & Coastguard Agency prior to submitting the application form. This Agency will offer advice on the safety of passengers aboard the vessel.

Club Premises Certificate

- 5.17** In order for a qualifying club to supply alcohol and provide other licensable activities on Club premises, a Club Premises Certificate is required. Qualifying conditions are specified in Section 62 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support the fact that the Club is non-profit making. Additional information is available from the Council and in the Section 182 Guidance Notes.
- 5.18** The Authority will require the Club to produce an Operating Schedule evidencing how it will promote the four Licensing Objectives.
- 5.19** Where a Club intends to open its premises to the general public a Temporary Event Notice or Premises Licence will be required. Whilst there is no definition of 'guest' within the Licensing Act 2003, the term

may include a wide variety of people who are invited by the Club. The manner in which persons be admitted as 'guests' would be for the Club to determine, as detailed in the Club Rules.

5.20 Where the point is reached that a Club is providing commercial services to the public it will no longer be considered to be conducted in good faith and would therefore no longer meet Section 62(3) of the Licensing Act 2003. Where the Authority considers a club has ceased to operate in good faith, it shall give the Club notice withdrawing their Club Premises Certificate. The Club shall be entitled to appeal this decision and where the appeal is not successful the Club will be required to apply for a full Premises Licence.

6 OPERATING SCHEDULE

6.1 The Authority requires applicants to address the licensing objectives in their Operating Schedule, which the Act requires them to prepare.

6.2 Conditions volunteered in the Operating Schedule should be:

- targeted on the deterrence and prevention of crime and disorder;
- appropriate for the promotion of the licensing objectives;
- proportionate and enforceable;
- relevant, clear and concise;
- not duplicate other legislation.

6.3 A list of suggested issues that may be appropriate for the applicant to address during the completion of the Operating Schedule are listed in Appendix 1. In addition, the Authority expect the following to be addressed in the Operating Schedule;

- where appropriate and normally at town centre premises where alcohol is sold, and late night take-aways, that CCTV be installed, both internally and externally of the premise. North Yorkshire Police, Licensing are able to give advice on the installation of CCTV in order to meet the licensing objectives;
- procedures for risk assessing sale of alcohol promotions and events such as "happy hours" for the potential to cause crime and disorder, and plans for minimising such risks;
- where a "vertical drinking" concept is to be adopted, appropriate controls are to be in place to reflect the nature of high volume, high capacity method of trading. Controls may include capacity limits and increased use of SIA door staff;

- the provision of non-alcoholic or low alcoholic drinks especially for designated vehicle drivers;
- where appropriate, measures to prevent the use or supply of illegal drugs, searching of customers for offensive weapons and drugs on entering premises;
- where appropriate, use of SIA door supervisors particularly in urban areas with alcohol sales taking place later than 2300 hours;
- steps taken to prevent under-age drinking in licensed premises or proxy sales i.e. the supply of alcohol intended to be consumed by underage persons off the premises;
- steps taken to identify customers who may be “drunk” upon arrival at the premises and refusal of entry e.g. use of alcoblow equipment;
- steps taken to prevent customers consuming excessive amounts of alcohol on the premises, and the refusal to serve “drunks”; including the prevention of proxy sales on behalf of such customers;
- Applications for a premise to be licensed for the on-sale of alcohol should consider a 30 minute “drinking up time” and highlight the steps that will be taken to manage how customers will be managed after sale of alcohol ceases. If the Schedule doesn’t specify how long the customers will be allowed to drink on the premises once the sale of alcohol has ceased, the premises will have to close at the terminal hour for the serving of alcohol;
- where available, town/city centre premises would normally join a “RadioLink” scheme, or any other approved recognised scheme,
- arrangements if a designated premises supervisor is not present at a premise. The person (s) responsible for authorising the sale of alcohol should be issued with a written authority from the Designated Premises Supervisor which would need to be available to the Police or an Authorised Officer for inspection. The Authority will sometimes regard it as appropriate for a Personal Licence holder to be on the premises at all times when alcohol is sold, particularly after 2300 hours.

6.4 The Authority expects the Operating Schedule to demonstrate how it is intended that the premises will be “good neighbours” both to residents and other venues and businesses.

6.5 The Authority when preparing the licences/certificates shall not simply replicate the wording from an applicant’s Operating Schedule but will interpret conditions in accordance with the applicant’s overall intentions.

6.6 With reference to the Protection of Children from Harm Licensing

Objective, those conditions relating to the admission of children to any premise remain a matter for the individual licensee or club or person who has given a Temporary Event Notice (TEN). Venue operators may however volunteer prohibitions or restrictions in their Operating Schedules.

- 6.7** All relevant representations will be considered during the decision making process unless they are considered to be frivolous, vexatious, repetitious, or not in line with the four Licensing Objectives.

7 LICENSING HOURS

- 7.1** The Authority will consider each application on its own merit and shall not seek to impose predetermined licensed hours. Where there are no objections to the hours applied for, the Authority will have no discretion but to grant the hours requested.
- 7.2** The Authority recognises that in some circumstances flexible licensing hours for the sale of alcohol may help to ensure that concentrations of customers leaving premises are avoided.
- 7.3** Any activity involving public entertainment, eating or drinking on a premise has the potential to impact adversely on the surrounding area due to disturbance or crime and disorder. The impact of noise generated by these activities, especially customers departing late at night, are intrusive when ambient noise levels are much lower.
- 7.4** Craven District is very sensitive to the impact of licensed activities due to the proximity of licensed premises and areas of residential properties. The rural back drop of large areas of the District also creates an increased sensitivity to the impact of licensed premises.
- 7.5** It is important that transport facilities are available to move customers away without delay to minimise disorder and disturbance. Transport is a relevant consideration in licensed hours. The difference between rural and urban premises is recognised by the Authority and appropriate consideration will be given in all cases.
- 7.6** The Authority will strike a fair balance between the needs of a licence holder and the risk of disturbance to local residents and businesses. The Authority may restrict the hours of operation, as a result of either receiving representations on application, or as a result of a review.
- 7.7** The Authority will give consideration to the risk of disturbances to local residents and possibly to businesses when licensable activities continue late at night and into the early hours of the morning or are involving a significant number of attendees i.e. large scale concerts, performances etc.

8 REGULATED ENTERTAINMENT

- 8.1** The Authority recognises that the definition of regulated entertainment

is determined by central Government and may be subject to change.

8.2 There are a number of key publications/sources of information in the context of regulated entertainment which provide guidance to applicants and other parties:

- General health and safety advice for the entertainment industry can be found at <https://www.hse.gov.uk/entertainment/index.htm>
- Advice on undertaking risk assessments and risk management can be found at <https://www.hse.gov.uk/risk/controlling-risks.htm> including the management of work-related violence in licensed premises <https://www.hse.gov.uk/pubns/indg423.pdf>
- The Purple Guide to Health, Safety and Welfare at Music and Other Events www.thepurpleguide.co.uk
- Managing crowds <https://www.hse.gov.uk/event-safety/crowd-management.htm>
- The Guide to Safety at Sports Grounds (6th Edition) known as the “Green Guide” <https://sgsa.org.uk/greenguide/>
- Safety Guidance for Street Arts, Carnivals Processions and Large Scale Performances. (Published by Independent Street Arts Network) <https://outdoorartsuk.org>
- Guidance on minimising noise can be found in [A simple guide for managing entertainment noise](#)

9 LATE NIGHT REFRESHMENT

9.1 The provision of late night refreshment forms an important part of Craven district’s late night economy. Where late night refreshment is provided between the hours of 2300 hours and 0500 hours applicants must demonstrate in their Operating Schedule how they will promote the four Licensing Objectives, particularly with regard to the Prevention of Crime and Disorder and the Public Nuisance licensing objectives.

9.2 Where an applicant wishes to sell alcohol either on or off the premises or provide an alcohol delivery service, the Authority recommends that the Operating Schedule sets out specific measures to ensure the prevention of Crime and Disorder and/or Public Nuisance in the vicinity of the premises. Existing premises that seek to provide an alcohol delivery service are expected to notify the Authority that they are operating such a service, setting out specific measures they intend to take to promote the licensing objectives, especially Protection of Children from Harm.

9.3 Where a delivery service is operated from these premises extra care

must be taken by the operator with regard to compliance/breach of licensing hours. For example, a pizza order must be capable of reaching the customer at the delivery address by no later than the end of the permitted hours.

9.4 The Authority expects takeaways and late night refreshment houses to have an appropriate policy for regularly clearing litter resulting from their operation.

9.5 The Deregulation Act 2015 enables LAs to exempt certain premises by: -

- Area;
- Type of premises;
- During a designated

period. Premises which can be exempt

are: -

- Motorway Service Areas;
- Petrol Stations;
- LA premises;
- Schools;
- Hospitals;
- Community Premises;
- Licensed Premises.

Late night refreshment from vessels, vehicles and moveable structures may be exempt from the Late Night Refreshment requirements, but only in those instances where they are not operating in a town centre location.

10 GARAGES

10.1 The Act provides that the sale of alcohol from premises used primarily as a garage, or parts of premises used primarily as a garage, shall not be authorised.

10.2 Premises are used as a garage if they are used primarily for one or more of the following, the:

- retailing of petrol or derv;
- sale of motor vehicles, and

- maintenance of motor vehicles.

11 CONDITIONS

- 11.1** The Authority is unable to impose conditions on applications where no relevant representations have been made.
- 11.2** Where relevant representations have been made, the Authority shall aim to facilitate negotiations or mediation between the applicant, Responsible Authorities and any “Other Person”, as defined under the Act. If this proves unsuccessful the Authority will convene a hearing. This may result in the grant or refusal of the application or the imposition of conditions.
- 11.3** Where conditions are imposed at a licensing hearing, they shall be appropriate and proportionate and shall be tailored to the size, style, characteristics and activities that take place at the premise concerned.
- 11.4** Any conditions imposed shall be precise and enforceable, clear in what they intend to achieve, shall not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation, shall be justifiable and capable of being met and shall focus on matters which are within the control of the individual licence holders.

12 REPRESENTATIONS

- 12.1** Responsible Authorities and ‘Other Persons’ may make representations on premises licence/ certificate applications and review existing premises licences/ certificates. A list of Responsible Authorities can be found in Appendix 3.
- 12.2** All representations must be relevant and any representation must relate to the likely effect of the grant of the licence/certificate on the promotion of at least one of the licensing objectives.
- 12.3** ‘Other Persons’ is defined as any individual, body or business that may be affected by the operation of a licensed premise regardless of their geographical location. In addition, the “Other Person” is encouraged to provide evidence supporting their representation or review. Any representation however must be specific to the premise in question and not to the area in general.
- 12.4** The Authority will consider the geographical location of any “Other Person” who has made a representation in order to give the appropriate weighting.
- 12.5** The Authority will determine whether a representation from an individual, body or business is relevant. If a representation is considered by the Authority to be frivolous, repetitive or vexatious it will be rejected.

12.6 On receipt of a valid representation, the Authority will assess the likelihood of the application causing unacceptable adverse impact, particularly on local residents. The following factors will normally be considered, although other relevant matters will be considered as the individual case dictates:

- type of use, the number and types of customers likely to attend the premises;
- proposed hours of operation;
- level of public transport accessibility for customers either arriving or leaving and the likely means of public or private transport that will be used by customers (considered on the merits of each application). Transport arrangements will not always be necessary;
- scope for mitigating any impact;
- frequency of the activity.

12.7 In considering any application relating to an existing licensed premise the Authority will take into account any evidence:

- of past demonstrable adverse impact from licensable activities, especially on local residents or businesses; and
- that if adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate that adverse impact.

13 REVIEWS

13.1 Responsible Authorities and “Other Persons” may apply to review a licence or certificate where it is believed an operator of a licensed premise is, in their opinion, not complying with the promotion of any of the four licensing objectives.

13.2 Where an application for a review has been submitted the Authority will determine whether or not it is relevant, frivolous, vexatious or repetitious. In borderline cases the benefit of the doubt will be given to the person making that application.

13.3 The Authority expects persons calling for a review to gather sufficient and relevant evidence relating to the specific premises that is subject to the review. This may include a diary of events and any potential witnesses.

14 TEMPORARY EVENT NOTICES

- 14.1** The Act 2003 provides for a light touch authorisation by way of a Temporary Event Notice (TEN) under which any person may submit a notification to the Authority to conduct licensable activities on a temporary basis.
- 14.2** A TEN may be given for part of a building such as a single room within a village hall, a plot within a larger area of land or a discrete area within a marquee, as long as the Notice clearly describes the area where the event is to be held.
- 14.3** Although holders of a TEN are not required to be on the premises for the event, they will remain liable for any offences that may be committed at the premises whilst the TEN is in place.
- 14.4** As a TEN does not relieve the premises user from any requirements under planning law for the appropriate planning permission, the Authority recommends the holder of the TEN to contact the Planning Authority, Highways and any other relevant authority well in advance of the event to ensure any other permissions are in place.
- 14.5** To avoid the potential objections, it is strongly recommended to contact North Yorkshire Police Licensing and Environmental Health prior to the submission of the TEN and outline any measures in place to promote the Crime and Disorder and Prevention of Public Nuisance licensing objectives.
- 14.6** Where a TEN is sought as part of a large scale or outdoor event, the Authority encourages event organisers to seek advice from the Safety Advisory Group in advance of submitting their application. The group will be able to offer local advice on other legislative requirements, such as health and safety issues, road closures, the use of pyrotechnics, local byelaws, etc. along with the need to prevent anti-social behaviour.
- 14.7** There is a provision for a late TEN to be submitted. These must be received no later than 5 working days prior to the event. If objections are received to a late TEN a Counter Notice will be issued and the event will not be allowed to take place.

Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified under section 182 guidance at paragraph 7.15 are not exceeded.

- 14.8** Event organisers must submit their TEN to Craven District Council Licensing, Environmental Health and Police Licensing Officer at the same time.

- 14.9** Temporary Event Organisers are advised to submit their TENS well before the date of the event and in any event, must submit their notifications in accordance with the number of working days specified in Regulations.

15 LICENSING COMMITTEE & LICENSING SUB COMMITTEE

- 15.1** Decisions on all licensing matters shall be taken in accordance with the Council's approved scheme of delegation. This is aimed at underlining the principles of timely, efficient and effective decision-making.
- 15.2** The Licensing Committee will consist of 15 Members. The Licensing Sub- Committee, which will normally consist of 3 members from the Licensing Committee, will hear any relevant representations from Responsible Authorities and any Other Persons. Any of these individuals or groups may specifically request a representative to make representations on their behalf.
- 15.3** Applications for Premises Licences, Club Premises Certificates or Temporary Event Notices, where relevant representations have been received, will be heard by a Licensing Sub Committee unless such representations are considered irrelevant, frivolous or vexatious or, unless the Authority, the applicant and everyone who has made a representation agree that a hearing is not necessary.
- 15.4** All decisions made by the Licensing Committee & Sub Committee will be made on the merits of applications. Providing fairness to all parties. The appropriate weight will be also given to the guidance issued under s182.

16 APPEALS AGAINST LICENSING AUTHORITY DECISIONS

- 16.1** Following a hearing of an application by the Authority, the applicant or any person who submitted a representation has the right to appeal against a decision made by the Licensing Sub Committee to Magistrates' Court within 21 days. In hearing an Appeal against the Licensing Authority's decision, the court will have regard to the Act, this Policy and the Section 182 Guidance issued under the Licensing Act 2003.
- 16.2** Where an appeal has been lodged against a decision of the Authority, the Authority will in all cases be the respondent to the appeal and may call as witnesses any Other Person or Responsible Authorities who made representations. In addition, and provided the court considers it appropriate, the Authority may also call as witnesses any individual or body it considers may assist in their response to an Appeal.

17 MINOR VARIATIONS

- 17.1** Minor variations allow small changes to be made to a premises licence or club premises certificate. A minor variation is defined as one that will not impact adversely on any of the four licensing objectives.
- 17.2** In considering applications, if there is any doubt about the impact of the variation on the licensing objectives the Authority will consult the relevant Responsible Authorities and take their views into account when reaching a decision on whether it is a minor variation.

18 MOBILE PREMISES

- 18.1** Where licensable activities take place in mobile vehicles, a Premises Licence will be required for the land upon which the vehicle operates. The application must specify the pitch from where trading is to take place.
- 18.2** As this type of premises is likely to cause people to congregate, the Authority shall expect applicants to demonstrate specific measures to prevent Crime and Disorder and Public Nuisance, and promote Public Safety.
- 18.3** In addition, the Authority shall expect the applicant to consider specific measures to ensure that litter from such premises is regularly disposed of.

19 ENFORCEMENT

- 19.1** The following officers are empowered by the Act to carry out inspections and enforcement role:
- Officers of the Licensing Authority;
 - Fire Authority Inspectors;
 - Inspectors locally responsible for the enforcement of the Health and Safety at Work, etc. Act 1974;
 - Environmental Health Officers;
 - Trading Standards Officers.
- 19.2** North Yorkshire Police are separately empowered and not included in the above list.
- 19.3** Enforcement action by the Council will be taken in accordance with the Regulator's Code and Craven District Council's Enforcement Policy.
- 19.4** With regard to enforcement action the Authority will normally take a graduated approach and work with the licence/certificate holder, Designated Premises Supervisor (DPS) and relevant Responsible Authorities in ensuring the premises complies with the licensing laws

and promotes the licensing objectives.

- 19.5** The Authority will seek to meet with the licence or certificate holder and/or DPS working closely with them and relevant Responsible Authorities in implementing a Premises Improvement Plan (“PIP”) where appropriate.
- 19.6** Where the licence holder does not comply with an agreed PIP and continues to breach the licensing laws and/or licence conditions, the Authority will consider further sanctions, either by way of a review, simple caution, prosecution or serving a Section 19 Closure Notice.
- 19.7** However, where a licence holder acts irresponsibly, or serious issues are identified, firm action will be taken that may include immediate prosecution, particularly where the licensing objectives have been undermined.
- 19.8** Enforcement action will be:
- targeted toward those premises presenting the highest risk;
 - proportional to the nature and seriousness of the risk those premises present;
 - consistent, so that the Licensing Authority takes similar approaches in similar situations;
 - transparent, so those who are subject to enforcement action know what to expect;
 - accountable so that the Authority and its officers take responsibility for their actions.
- 19.9** The Authority will work in partnership with responsible authorities as appropriate, and conduct non-routine inspections to ensure compliance with the licensing conditions and the law. After each visit the DPS and licence or certificate holder shall be notified in writing of any concerns and be given an opportunity to rectify any issues. Where one off events take place, the Authority may also carry out inspections to ensure the licensing objectives are promoted. Where inspections are carried out solely by North Yorkshire Police, a written notification will not normally be issued.
- 19.10** The Authority may conduct checks to ensure that official notices for new and variation applications and reviews, are accurate and clearly displayed. Notices for reviews must be displayed at or near the site of the premises, and, where necessary, these may be regularly checked and recorded.
- 19.11** The licence/certificate holder is required to ensure that the Premises Licence/Club Premises Certificate, or certified copy of that licence or certificate, is kept at the premises and is available for inspection by an

authorised officer at all times

19.12 The Act requires that a summary, or certified copy, is prominently displayed at the premises. With regard to enforcement, where a premise does not display the licence summary or does not have the licence/certificate, or certified copy, on the premises, then the Authority shall write to the licence/certificate holder giving them an initial warning prior to

taking any legal action. Continued failure will result in further sanctions being taken as outlined above.

19.13 The Government recommends that licensing authorities should set out joint enforcement protocols with the police and other authorities.

20 ANNUAL LICENCE FEES

20.1 The Police Reform and Social Responsibility Act 2011 give the Authority the power to suspend a licence or certificate if the holder fails to pay the annual licence fee promptly in accordance with the invoice. Where the licence/certificate holder fails to pay the annual fee, the Authority will notify the licence/certificate holder in writing specifying the date on which the suspension takes effect. This date will be two working days after the day the Authority has given the licence/certificate holder such notice. It is an offence to continue to undertake licensable activities when the licence/certificate has been suspended and appropriate action will be taken.

20.2 Where the licence/certificate holder has paid the annual fee the Authority will lift the suspension.

21 THE ROLE OF DISTRICT COUNCILLORS

21.1 The Authority recognises that District Councillors play an important role in the local community. They may make representations in writing and speak at the hearing on behalf of any other person such as a local resident or business if specifically asked to do so. They can also make representations in their own right if they have concerns about a premise.

21.2 District Councillors will be informed of all new applications for licence grants and reviews within their ward.

21.3 District Councillors may attend hearings of licensing sub committees considering applications and speak on behalf of local residents and businesses, but only if:

- they have made a personal representation; or
- they have made a representation on behalf of local residents or business as 'community advocates; or

- they have been nominated by (an objector) who cannot attend the hearing or prefers to be represented at the hearing.

22 COMPLAINTS AGAINST LICENSED PREMISES

- 22.1** Complaints will be dealt with in a timely and efficient manner. All noise- related complaints should initially be raised with the Council's Environmental Health team.
- 22.2** Complainants in the first instance should whenever possible, raise their complaint directly with the licensee in order to resolve the matter. The Authority, however, recognises that it is not always possible or practical for the public to raise complaints directly with the licensed complaints.
- 22.3** Complaints regarding unlicensed activities and operating outside the permitted hours should be raised with the Council's Licensing team or Police Licensing Officer, contact details appear in Appendix 3.

23 COMPLAINTS AGAINST POLICY OR LICENSING APPLICATION PROCESS

- 23.1** Complaints against this Policy and the application process can be made [online](#) , by email: contactus@cravendc.gov.uk or in writing to: Buisness Support, Craven District Council, 1 Belle Vue Square, Broughton Road, BD23 1FJ

24 LIVE MUSIC ACT 2012

- 24.1** Under the Live Music Act 2012 the public performance of live amplified and unamplified music between the hours of 0800 hours and 2300 hours is no longer a licensable activity. This applies to premises authorised by a premises licence or club premises certificate, for the sale or supply of alcohol for consumption on a premises.
- 24.2** In some cases, certain workplace locations, including schools, colleges, village and church halls may be excluded from the requirements to hold a premises licence or TEN but further advice should be sought from the Council's Licensing, for contact details see Appendix 3.
- 24.3** Any existing licence/certificate conditions relating to live music remain in place but are suspended between these hours
- 24.4** The Authority may impose new, or reinstate existing conditions, following a review of the premises licence or club premises certificate.

25 SEXUAL ENTERTAINMENT VENUES

- 25.1** Where an operator seeks to provide activities that include striptease or

any other kind of nudity or sexual entertainment (for example, lap dancing clubs or topless waitresses), an application will need to be submitted for a Sexual Entertainment Venue Licence under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

25.2 A premises is not a sexual entertainment venue if :

- it is a sex cinema or sex shop;
- there have been no more than 11 occasions on which relevant entertainment has been provided, within a period of 12 months.

26 GAMING MACHINES

26.1 Compliance within the Gambling Commission's Codes of Practice relating to gaming machines on licensed premises is mandatory.

27 POLICY DETERMINATION AND REVIEW

27.1 The Authority will keep the Statement of Licensing Policy under review and make such revisions it feels appropriate. Where revisions are made, the Authority shall publish a standard of revisions or a revised Statement of Policy. The Authority may make revisions to this Policy following changes to, for example:

- local circumstances;
- the Licensing Act, associated regulations or statutory guidance;
- national legislation;
- the policies and practices of a responsible authority.

27.2 When reviewing the Policy the Authority will undertake comprehensive consultation, as detailed in Appendix 4. Consultees will be amended as appropriate

Tourism and Employment

27.3 Links where possible will be made to the Economic Development Programme and Tourism Strategy.

Culture

27.4 The Authority will keep under review the impact of licensing on regulated entertainment, and particularly live music and dancing. Where there is any indication that licensing requirements is deterring such events, the policy may be revisited with a view to investigating how the situation might be reversed.

Community Safety: Crime and Disorder

- 27.5** The Authority will endeavour to ensure that the Licensing Function meets its responsibility under Section 17, Crime and Disorder Act 1998.

APPENDIX 1

OPERATING SCHEDULE, ISSUES TO BE CONSIDERED

General

Premises log book
Management and staff training and awareness of duties under the Licensing Act
Policies and procedures relating to e.g. age restricted sales, capacity, noise monitoring, dispersal, queuing, etc.
Safe capacities
Evidence of competent management procedures

Prevention of Crime and Disorder

Drugs
policy
CCTV
Pub Watch and Radio links with other licensed premises
Security Industry Authority Door supervisors and Approved Contractor Scheme
Polycarbonate or shatterproof vessels
An appropriate ratio of tables and chairs to customers
Management of outside areas
Use of 'spikeys' or similar anti drink spiking device
Calming atmosphere at close of business/event
Safe capacities
Queuing policy
Stewards for events and event plan

Public Safety

Active promotion of non/ low alcoholic drinks, particular in premises with late night extended opening hours
Health and Safety and Fire Safety risk assessments and staff training
Safeguarding measures
Use of CCTV internally and externally, where appropriate
Safe capacities and monitoring procedures
Provision of local taxi companies who can provide safe transportation home
Procedures to control access to and egress from premises
Patrolling of premises
Glass clearance policy, both inside and outside, where appropriate
Use of "plastic" glasses i.e. after 2300 hours or for drinks to be consumed outside the premises
Control of ventilation
Control of litter immediately outside the premises
First aid trained staff
Adequate external lighting

Consideration of the safety of performers appearing at any premises
Indoor sporting events: medical practitioner; flame retardant material location of public to wrestling ring; water sports events – lifeguards
Stewards for events and event plan; and regard to standards of the National Sporting Body
Ensuring appropriate access for emergency services

Prevention of Public Nuisance

Control of general noise, disturbance, light, odour, litter and anti-social behaviour
Whilst regulated entertainment taking place, management of noise disturbance
Control of litter (e.g. cigarette ends, rubbish, printing of premises name on food wrappings etc.), vomiting, urinating and anti-social behaviour in the vicinity of the premises
Dispersal policy to ensure customers respect their neighbours
Removal of persons causing disturbance or under the influence of drink or drugs
Management of outside areas, e.g. pub gardens, smokers, etc.
Control of deliveries in early hours
Queuing policy
Winding down period
Partnership with local transport providers

Protection of Children from Harm

Refusals book
Consideration of access to premises where adult entertainment may take place
Consideration to proximity of premises to schools and youth clubs
Clarity on activities and times at which events take place to determine whether or not it is appropriate to allow access to children
Challenge 21/ 25 policy
Prompting mechanism on tills at retail outlets
Measures to control access to hotel minibars
Operational measures to avoid proxy purchases
How to prevent children from being exposed to alcohol sales at under age events, gambling, incidents of violence and disorder and drugs or drug taking
Consideration of safeguarding issues
Consideration of children as performers where relevant
Supervision of children
Under 18 event Code of Conduct, for example: searches, ticketed event, door supervisors, stewards monitoring event, set hours for event, restricted event, policy to ensure young people leave premise safely, etc.

APPENDIX 2

LICENSING ACT 2003 GLOSSARY

Alcohol	Includes beer, wine, cider, spirits or other fermented, distilled or spirituous liquor of, or exceeding, 0.5% strength. The definition of alcohol was amended by the Policing and Crime Act 2017 to include alcohol “in any state”. (Para 5.4 Section 182 Guidance)
Alcohol Wholesaler Registration Scheme (AWRS)	From 1 st April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) will need to ensure that the UK wholesalers that they buy alcohol from have been approved by the HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. Businesses buying from an unapproved wholesaler may be liable to a penalty or could even face criminal prosecution and their alcohol stock may be seized. (Para 2.32 Section 182 Guidance).
Conditions:	
Proposed Condition	Conditions proposed by the applicant in the Operating Schedule
Imposed Condition	Conditions imposed by the Licensing Authority after a licensing hearing
Mandatory Condition	Conditions laid down by the Licensing Act 2003 as amended
Cumulative Impact	Where there is a potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area
Designated Premises Supervisor (DPS)	A specified individual holding a Personal Licence, who is responsible for the day to day running of the business and whose name will appear on the Premises Licence
DCMS	Department of Culture, Olympics, Media & Sport
Frivolous Representation	Representation or objection that is categorised by its lack of seriousness

Hot Food and Drink	Supplied on or from any premises is “hot” if the food or drink, or any part of it is above ambient temperature
Licence Holder	Licence holder is defined as the Premises Licence Holder or Club Premises Certificate Holder
Licensing Qualification	Qualification obtained from for example the British Institute of Innkeeping and a requirement for a Personal Licence
Occupancy Levels	Safe occupancy limits for a premises is determined by the size of the premises combined with ensuring that escape routes are adequate for the people, and numbers of people, who are likely to use them. This prevents overcrowding which can lead to crime, disorder and concerns over public safety
‘Other Persons’	Defined as any individual, body or business affected by the operation of a licensed premises, regardless of their geographical location.
Prejudicial Interest (Members)	An interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member’s judgement of the public interest
Premises Improvement Plan	An agreed action plan with timeframes agreed between the licence holder and the Responsible Authority
Premises Licence	A Licence in respect of any premises, such as land or buildings within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless reviewed or revoked
Proprietary Clubs	Clubs run commercially by individuals, partnerships or business for the purpose of profit
Provisional Statement	A statement where premises are being constructed or extended or substantially altered that the Licensing Authority would be provisionally minded to grant a Licence on completion of the works
Proxy Purchases	Illegal purchasing of alcohol on behalf of a person under the age of 18

Qualifying Club	<p>Where members have joined together for particular social, sporting or political purposes and then combined to buy alcohol in bulk as members. Examples of Qualifying Clubs are:</p> <ul style="list-style-type: none"> • Conservative, Labour and Liberal Clubs • Royal British Legion/ Ex-Servicemen's Club • Working Men's Club
	<ul style="list-style-type: none"> • Social and Sports Clubs
Relevant licensed premises	Premises that are authorised to supply alcohol for consumption on the premises by a Premises Licence or Club Premises Certificate
Relevant Offences	As set out in Schedule 4 to the Licensing Act 2003
Relevant Representations	Representations, or objections, are relevant if they relate to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives
Safety Advisory Group (SAG)	A group of officers from Licensing, Highways, Police, Fire, Ambulance, Health and Safety, Emergency Planning formed to offer advice to applicants on carrying out events
Vexatious Representation	A representation may be considered vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification

APPENDIX 3

RESPONSIBLE AUTHORITY CONTACT LIST

In accordance with the S182 Guidance this policy lists all the relevant contact points where members of the public may obtain general advice. The Licensing Authority in particular recommends that all applicants seek advice from the Responsible Authorities below prior to submitting applications.

Licensing Authority

Licensing
Craven District Council
licensing@cravencd.gov.uk
Skipton
BD23 1FJ

Tel: 01756 700600
E-Mail:
1 Belle Vue Square

N.B. The Licensing Authority is also a Responsible Authority in its own right.

North Yorkshire Police

Alcohol Licensing Unit
North Yorkshire Police
nyplicensing@northyorkshire.pnn.police.uk
York
YO10
4BY

Tel: 01904 643273
E-mail:
Fulford Road

North Yorkshire Fire & Rescue Authority

North Yorkshire Fire and Rescue Authority Chief Fire Officer
Fire Brigade Headquarters Crosby Road
Northallerton
North Yorkshire DL6 1AB
Email: Electronicconsultation@northyorksfire.gov.uk

Environmental Health Services

Environmental Health
Craven District Council
1 Belle Vue Square
Skipton
BD23 1FJ
E-Mail: environmentalhealth@cravencd.gov.uk

Tel: 01756 700600

Health & Safety Enforcement for all non-Local Authority/County Council-owned and operated premises:

Environmental Health Tel: 01756 700600
Craven District Council
1 Belle Vue Square
Skipton
BD23 1FJ
E-Mail: environmentalhealth@cravencd.gov.uk

OR

Health & Safety Enforcement for all Local Authority/County Council-owned and operated premises

The Operations Manager Tel: 0113 283 4200
Health & Safety Executive Fax: 0113 283
4382 The Lateral
Leeds
LS11
9AT

Planning Services (outside of the Yorkshire Dales National Park)

Planning Tel: 01756 700600
Craven District Council
1 Belle Vue Square
Skipton
BD23 1FJ
E-Mail: planning@cravencd.gov.uk

Planning Services (within the Yorkshire Dales National Park)

Planning Tel: 03004560030
Yorkshire Dales National Park Authority
Colvend
Grassington
Skipton
North Yorkshire
BD23 5LB
E-Mail: planning@yorkshiredales.org.uk

Children and Young Persons

Social Services (North Yorkshire County Council)(Children) North Yorkshire
County Council

County Hall Northallerton North
Yorkshire DL6 2XQ
E-mail: social.care@northyorks.gov.uk

Trading Standards

North Yorkshire Trading Standards
Unit 4/5, Block B Tel: 01609 534800 Thornfield
Business Park
Standard
Way
Northallerton
DL6 2XQ

Public Health

Dr Louise Wallace
Director of Public Health
North Yorkshire County Council
County Hall
Northallerton
DL7 8AD

Tel: 01609 780780
E-mail: nypublichealth@northyorks.gov.uk

Home Office Immigration

Home Office UK Visas and Immigration (UKVI) Alcohol
Licensing Team
Lunar House
40 Wellesley Road Croydon,
CR9 2BY
E-mail:
Alcohol@homeoffice.gsi.gov.uk

For vessels only

Maritime & Coastguard Agency

Surveyor in Charge
Maritime & Coastguard Agency
Crosskill House
Mill Lane
Beverley HU17
9JB

Tel: 01482 866 606
E-mail: mcahull.mo@mcga.gov.uk

This list may from time to time be subject to change and applicants and existing licence holders are recommended to contact the Licensing Authority for an up to date list.

Appendix 4

List of consultees (excluding residents)

All District Councillors
All Parish Councils
British Beer and Pub Association
Federation of Small Businesses
Craven Chamber of Trade and Commerce
Skipton Magistrates Court
Health and Safety Executive
Members of Parliament for District
North Yorkshire County Council-Alcohol Strategy
North Yorkshire County Council-Children and Young Persons
North Yorkshire County Council-Trading Services North Yorkshire Fire and Rescue Service
North Yorkshire Police-Licensing Officers Police and Crime Commissioner
Public Health England
Pub watch Skipton
The Association of Licensed Multiple Retailers The Wine and Spirit Trade
Association Working Men's Club
Institute Union Yorkshire Ambulance Service

Consultee List

North Yorkshire Police – Statutory Consultee
North Yorkshire Fire - Statutory Consultee
Director of Public Health - Statutory Consultee
Environmental Health
Health & Safety Executive
Planning Services – Craven District Council and Yorkshire Dales National Park
All District Councilors
All Parish Councils
British Beer and Pub Association
Federation of Small Businesses
Craven Chamber of Trade and Commerce
Skipton Magistrates Court
Health and Safety Executive
Members of Parliament for District
North Yorkshire County Council-Alcohol Strategy
North Yorkshire County Council-Children and Young Persons
North Yorkshire County Council-Trading Services
North Yorkshire Police- Police and Crime Commissioner
Pub Watch Scheme
The Association of Licensed Multiple Retailers The Wine and Spirit Trade
Association Working Men's Club
Institute Union Yorkshire Ambulance Service
Skipton BID
Licence Holders
Published on the Councils Website
Published on the Council Social Media

Dear Licensing,

Thank you for providing North Yorkshire Police Licensing Department the opportunity to comment on your draft statement of Licensing Policy.

The policy document in general is clear, concise and easy to read, affording guidance to those individuals unfamiliar with the legislative regulations.

As the Force Licensing Manager for North Yorkshire Police I have drafted my observations in relation to the draft policy below for your consideration, should you wish to include or amend.

Observations:-

Para 4.32- *“The Authority will review any “special policies” at least every five years to see whether they have had the effect intended and whether they are still needed.”*

I would refer the Authority to the Statutory 182 Guidance Para 14.35 which states:-

*“After publishing a CIA the licensing authority must, **within three years**, consider whether it remains of the opinion set out in the assessment. In order to decide whether it remains of this opinion it must again consult the persons listed in section 5(3). If having consulted with the statutory list of persons the licensing authority decides that it is no longer of the opinion set out in the CIA, it must publish a statement to that effect. The statement must make clear that any reference to the CIA in its licensing policy statement no longer applies. The licensing authority should remove any reference to the CIA within its licensing policy statement at the earliest opportunity.”*

Any review of CIA policies should therefore be within 3 years not five as referred to in the draft policy.

Para 6.3 in relation to drinking up time

““drinking up time” and how customers are managed after sale of alcohol ceases. The Schedule should specify how long the customers will be allowed to drink on the premises once the sale of alcohol has ceased, otherwise premises will have to close at the terminal hour for the serving of alcohol;”

This is an opportunity for Craven Authority to set out a specific drinking up time in a proactive approach to assist in the gradual dispersal of customers and consequently reduce impact on the area. Even though the traditional drinking up time was not carried over in the LA2003 other authorities across North Yorkshire have recommended that applicants of premises licensed for the on-sale of alcohol consider a 30 minute drinking up time and I would suggest that this is proportionate and provides applicants some clarity on the matter.

Para 14.5

“To avoid the potential police objections, it is strongly recommended to contact the North Yorkshire Police Licensing Officer and Environmental Health prior to the submission of the TEN and outline any measures in place to promote the Crime and Disorder and Prevention of Public Nuisance licensing objectives”.

It is not only the police that can object to TEN’s but also Environmental health, yet the opening line is that it is potential police objections only.

Para 14.7. It may be beneficial to include the Section 182 guidance Para 7.12 regarding late TENS which should only be submitted as follows:-

“Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.”

This may dissuade applicants from lodging late TENs unless it is for reasons beyond their control.

Any further queries in relation to this please do not hesitate to contact me.

Kind Regards

Jackie

PS133 Booth
Force Licensing Manager
Partnership Hub
Tel 101 Ext 30133
Mobile: 07710977979
Email:- Jacqueline.booth@northyorkshire.pnn.police.uk

Section 4 of the Policy identifies the interaction of Planning and Licencing permissions. Would it be helpful to be more prescriptive in describing a recommended process for applicants such as

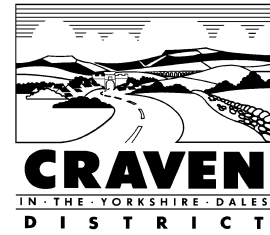
Applicants are recommended to apply for a Licence first. If approved, the Licence will outline conditions which must be followed in order to operate the licenced activity. Some of these may require physical changes to the proposed premises which can be incorporated into the Planning application

I suggest use of the phrase recommended process to allow for exceptions

LICENSING COMMITTEE

13th July 2021

Statutory Taxi and Private Hire Vehicle Standards



Report of the Licensing Manager

Ward(s) affected: All

1. **Purpose of Report** – to inform Members of the Taxi and Private Hire Vehicle Standards issued by the Department for Transport and seek approval of action proposed in response to its recommendations.
2. **Recommendations** – Members are recommended to:
 - 2.1 Note the content of the report;
 - 2.2 Agree to review the Private Hire Operator Licence Conditions detailed in the Council's Hackney Carriage and Private Hire Licensing Policy at Appendix Q and authorise the Solicitor to the Council to carry out a public consultation and present responses received to this Committee for further consideration.
 - 2.3 Consider whether the Council should subscribe to the National Register of Taxi and Private Hire Licence Revocations and Refusals.

3. **Report**

Background

- 3.1 In July 2020 the Department of Transport (DfT) published revised Taxi and Private Hire Vehicle Standards (Taxi Standards). A copy is attached at Appendix A. The purpose of the Taxi Standards is to create a core minimum set of national standards to better regulate the taxi and private hire sector better with the aim of protecting the public.
- 3.2 The DfT expects the recommendations set out in the Taxi Standards to be implemented by Licensing Authorities unless there are compelling local reasons not to.

Report

- 3.3 Officers have now reviewed the Taxi Standards alongside the Council's Taxi Policy (adopted in 2018). The Taxi Policy meets most of the recommended criteria set out in the Taxi Standards however, a small number of matters do require consideration

and these are set out below.

- 3.4 The Taxi Standards also highlight the importance of Licensing Authorities providing guidance on identifying and using licensed vehicles. In response, a dedicated page has now been created on the Council's website: www.cravendc.gov.uk/taxisafe.

Private Hire Operators Conditions P29-32 of the Taxi Standards

- 3.5 The Council's Taxi Policy includes a number of requirements and conditions for Private Hire operators however, it does not condition the following, which is a recommendation of the DfT Taxi Standards:

- Require a register of all staff that will take bookings or dispatch vehicles is kept. The primary reason for this is for the Licensing authorities to 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.
- 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.
- 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.

The Council's Taxi Policy states – *“Operators are recommended to ensure that all staff who have face to face contact with the public (for example, in an office with public access) have – or have proof they have applied for – a Basic Disclosure Check, which is available through Disclosure Scotland. Upon request from an Authorised Officer of the Council or Police Officer the disclosure will be made available for inspection at any time. Where doubts as to a person's suitability to be employed in such a capacity on behalf of the operator (with access to personal information of customers as well as face to face contact) then the Operator will be considering their future employment for the business as well as the continued future validity of the operator licence be brought into question.”*

It is proposed that the Committee undertake a review of the current **Private Hire Operator Licence Conditions (Appendix Q of the Taxi Policy)** with a view to bringing them in line with the Taxi Standards recommendations and instruct officers to carry out consultation with both the public and the licensed trade and present responses received to the next meeting of this Committee for further consideration.

Joint authorisation of enforcement officers P33 of the Taxi Standards

- 3.6 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.

Currently there is no shared agreement for Joint Enforcement with any neighbouring authorities. Where any known issues arise with vehicles and drivers not licensed with the authority information is sent to the home authority and if applicable enforcement work with North Yorkshire Police Road Traffic is undertaken.

National Taxi Register P15-16 of the Taxi Standards

- 3.7 The Council does not subscribe to the National Register of Taxi and Private Hire Licence Revocations and Refusals but it is a recommendation of the Taxi Standards. The register allows councils to record details of a taxi or PHV licence which has been refused or revoked by the authority and allows other local authorities to check new applicants against this register. The register is seen as a way of tackling the issue of individuals making applications to different licensing authorities following a refusal or revocation.

Currently, if drivers do not disclose information about a previous revocation or refusal to grant a licence, there is often no way for an authority to know otherwise. This means that vital intelligence about an applicant's past behaviour is being missed and an individual may be able to be licensed in another area, despite having a previous licence revoked or an application refused. The register is developed and hosted by the National Anti-Fraud (NAFN).

The register is provided free alongside an existing membership with NAFN. However, the Council ceased this membership in 2016 due to rising cost of the subscription. The cost of membership to access the register would now be £1600 annually. All fees associated with the administration of taxi licensing can be recovered from licence holders. This would add approximately £30-£35 to each existing and new licence fee. Based on a three year licence.

The Committee is asked to consider if the Council should now subscribe to the National Taxi Register in light of the Taxi Standards and pass on the cost to the licensed trade.

Assessment of Convictions P35-36 of the Taxi Standards

- 3.8 The Council's Taxi Policy includes extensive guidance and criteria for the consideration of convictions, cautions, warnings and reprimands etc. The Councils

Taxi policy however doesn't meet the following recommendations.

- 3.9 Possession of a Weapon - the Council's Policy states three years must have passed since the completion of any sentence before a license is granted. The guidance suggests the period should be seven years.
- 3.10 Dishonesty – The Council's Policy states that a minimum of 5 years free of conviction must have passed before any licence is granted. The guidance suggests this should be seven years.
- 3.11 Using a hand-held device whilst driving – The Council's Policy doesn't provide specific guidance on this. It is proposed the best practice guidance on this is approved for inclusion to the policy.

4. **Financial and Value for money Implications**

The costs associated with carrying out the consultation proposed will be met from existing budgets.

If Members are minded to approve subscribing to the National Register of Taxi and Private Hire Licence Revocations and Refusals, the associated costs can be recovered via taxi licensing fees.

5. **Legal Implications**

The Statutory Taxi and Private Hire Vehicle Standards are published by the Department for Transport under section 177 of the Policing and Crime Act 2017. The Council has a legal duty to have regard to these Statutory Standards and should implement the recommendations set out in these Standards unless there is compelling local reason not to do so.

6. **Contribution to Corporate Priorities**

The Hackney Carriage and Private Hire Licensing Policy contributes towards the priority of supporting the wellbeing of our communities.

7. **Impact on the declared Climate Emergency**

No implications for the declared Climate Emergency.

8. **Risk Management**

Failure to have regard to the Taxi and Private Hire Vehicle Standards issued under section 177 of the Policing and Crime Act 2017 would leave the Council in breach of a legal duty to do so.

9. **Chief Finance Officer (s151 Officer) Statement**

No additional comments.

10. **Monitoring Officer Statement**

The recommendations within the report are lawful and within the powers of the Council.

11. **Equality Analysis**

An Equality Impact Assessment was completed at the time the Hackney Carriage and Private Hire Licensing Policy was adopted. It has been reviewed in view of the recommendations contained in this report. The proposed changes would continue to help improve public safety and provide a benefit to all communities within Craven.

12. **Consultation with Others**

None at this stage.

13. **Access to Information: Background Documents**

The Hackney Carriage and Private Hire Licensing Policy (2018) is available on the Council website.

14. **Appendices**

Appendix A – Department for Transport Statutory Taxi and Private Hire Vehicle Standards

15. **Author of the Report**

Tim Chadwick, Licensing Manager
Telephone: 01756 706251
Email: tchadwick@cravendc.gov.uk

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.



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 policies.
- 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 complaint, 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 and 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 has 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 in 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
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	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.