

OFFICER RESPONSES TO CONSULTATION

DISCLOSURE AND BARRING CHECKS

ISSUE RAISED	COMMENT
<p>The cost of the checks</p>	<p>For drivers the proposal changes from a check every three years to following the DfT statutory guidance for them to sign up to the update service for 6 monthly checks or have a new DBS every six months (see para 6.2 of DfT Guidance).</p> <p>The applicant will apply for an enhanced DBS check, currently SCC has obtained a reduced cost from an on line supplier at the rate of £49.60p. This is paid by the driver. The driver deals directly with the supplier so does away with officer time spent completing forms.</p> <p>SCC has procured the services of an on line supplier to provide the checking service at a cost of £15 per year per driver. This is charged to SCC and the cost will be included in the renewal fees.</p> <p>It will be important for applicants signed up to the update service to keep their original certificate and maintain current payment details with the service as failure to do so will require a new application with associated costs and delay the grant of a licence. The DBS is looking at improving the payment options.</p> <p>Currently officers spend time completing the DBS check each year, this time is levied against the fees applicants pay. As this piece of work is contracted out it will use less staff time, reducing the costs to the service provided by SCC staff.</p> <p>Licensing fees are ring fenced and cover the costs of the administration of the service. They are not used for any other purpose.</p> <p>For proprietors and Operators</p> <p>Currently there is no requirement for any such checks. The proposal to have these checks follow the DfT statutory guidance. The cost is borne by the applicant but is a legitimate business expense. The frequency is on application or renewal. A driver proprietor will be able to use the driver DBS check so there will be no requirement for a second check.</p>
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<p>Time concerns</p>	<p>The update service is a more efficient process, officers have instant access to responses.</p>
<p>.....</p>	<p>.....</p>
<p>Pressure and Stress</p>	<p>The update service is provided on line and is simple to use. The important part is applicants must maintain the service by keeping their original certificate and maintaining current payment details with DBS</p>
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<p>Depends on the crime</p>	<p>This is linked to the suitability test, not the frequency of the checks. The suitability guidance also reflects the DfT statutory guidance.</p>

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Against 6 month checks	The frequency follows the DfT Statutory guidance.
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If a crime is committed they will be caught out in a different way	Systems are in place to try and capture significant events such as an arrest or conviction, but this is reliant on a number of factors such as identifying the offender is a licence holder and reporting it to the appropriate licence holder. The systems are not fool proof and the DBS check provides the cover for any gaps.
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DBS should be at different frequencies	The frequency follows DfT statutory guidelines. We have experienced discovering convictions that were committed during the life of the previous licence when the renewal DBS certificate has been seen, placing the public at risk.
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Supporting comments	Make it a requirement to sign up to the update service. Agree it will improve customer confidence.
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Other comments	All operators need to demonstrate they are fit and proper, including large corporations. Proprietors will be able to use a drivers enhanced check as long as it is less than 6 months since the last check which it should be. We follow the DBS guidelines for people from overseas, namely requiring certificates from the country the applicant has been to and to cover a minimum of 5 years. Suggestion to only require basic DBS on employment for operator staff but to have requirement in contract to disclose offences. Policy updated

PRIVATE HIRE VEHICLE (PHV) SIGNAGE

ISSUE RAISED	COMMENT
Safety of stickers for customer to recognise the vehicle	This is current practice and has been in place for many years. It clearly identifies the vehicle as a licensed vehicle which is a public safety matter. Provides clarity for customers at locations frequented by PHVs such as night clubs and travel hubs. Removal of the operator detail will make it easier for an unscrupulous driver to take another companies booking. The operator details provide a clear line of communication for anyone in relation to the use of that vehicle.
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In favour of stickers with operator details	Concern removal of operator detail will make it easier to take a job not booked to that driver.

	<p>Elderly customers and the vulnerable are high use taxi users and often rely on traditional methods of communication so looking for a company on a door sign is important for them.</p> <p>The local operators have developed their business on the policies of Southampton, the removal of the company details on the door stickers will have a significant impact on them and could result in them taking advantage of the current state of legislation and licence elsewhere but continue to provide a service in Southampton. They would have to abide by that authorities policy and conditions so very unlikely to have cameras or local enforcement officers which will undermine our policy and conditions.</p>
<p>Should only work for one company</p>	<p>Removal of the company name from the door sticker although making it a lot easier for a driver to work for multiple operators at the same time will prevent operators from being able to regulate the work as they will not know which drivers are going to be available. The vulnerable in our society are more reliant on the taxi trades and will therefore be adversely impacted.</p> <p>The removal of the company name will not increase the amount of work for the trade overall, all it will do is improve the chances of those that decide to use more than one operator. A reduction or perceived reduction in the safety element of the policy is more likely to reduce the amount of journeys overall for the trade.</p> <p>Working for more than one operator is likely to increase the distraction of the driver as they will have multiple apps or devices to manage.</p> <p>Making it easier to work for more than one company at a time will allow drivers to be more selective on the jobs they accept. i.e. a short trip with company A comes in worth £5 as a longer trip with company B comes in worth £30 is likely to result in an operator having difficulty fulfilling the short trips. It should also be noted the vulnerable and those with mobility issues are more likely to require these shorter journeys.</p>
<p>Should be allowed to work for multiple operators</p>	<p>Drivers are free to choose which operator to apply for.</p> <p>Hackney carriages are not required to display door stickers, it is only PHVs that are required to display the door stickers.</p> <p>This is not going to increase the amount of work for the private hire industry.</p> <p>Any operator unable to fulfil a booking with their own vehicles can pass that booking to another operator, either one licensed by Southampton or any other licensing authority. The national companies that tend to be app based companies are more likely to pass the booking to one of their own operators licensed elsewhere.</p> <p>We will make Southampton a more attractive authority to licence with as an authority of convenience leading to an increased number of vehicles being licensed in Southampton but working in other towns and cities.</p>

	<p>A vehicle remains licensed all of the time regardless of the use it is put to, the policy is a choice of stickers so the vehicles will remain clearly identifiable as licensed vehicles.</p> <p>Suggestion to remove all signs and use a roundel similar to London, this will make unlawful plying for hire much easier and poses a risk to the public in making vehicle identification more difficult.</p>
<p>Magnetic door signs</p>	<p>A lot of modern cars use less steel in vehicle production preventing magnetics.</p> <p>Magnetics are an insecure load, they are prone to coming off during a journey, particularly on motorway trips, which is a hazard and could result in an accident.</p> <p>Magnetics would also make it very easy to steal and use on an unlicensed vehicle.</p> <p>Portsmouth licensing advise allowing magnetic signs is a trial and already has evidence of cars with no signs.</p>
<p>No signs or stickers</p>	<p>Reference to the Competitions Market Authority suggesting the proposal to have door stickers is contrary to the CMA guidance. The CMA's view is that competition should only be restricted by regulatory rules to the extent that is necessary to protect consumers. The purpose of the stickers is to protect the public and in particular the vulnerable.</p> <p>Suggestion the stickers attract damage and theft. On a few occasions we have been advised by the police thieves are targeting taxis, however it is a legal requirement to have a plate so the vehicle will still be identifiable as a taxi but not so clearly.</p> <p>Making a vehicle easily identifiable as a Southampton licensed vehicle supports the safety aspect of the policy. Customers will know these cars have a high standard, with cleaner engines, taxi cameras, thorough testing regime and more.</p> <p>Comments are made the signs are just advertising for the city and this is another benefit, the taxi trades are often the first contact visitors have and first impressions have a lasting impact. The better that first interaction is the better the impression and these are often people who will attract more business and visitors to the city, improving the opportunity for all.</p>
<p>Customers given other details/Do not notice stickers</p>	<p>Not all companies have an app, the local companies that do have an app also operate a traditional call centre, albeit some have some levels of automation. The national companies tend to be purely app based. This means not all customers receive details of the driver and vehicle coming for them. Certainly locations making bookings for their customers, such as hotels, will not always be sending details of the vehicle and driver, making the vehicle identification important.</p>

Other comments on vehicle signage	<p>Restricted vehicles are predominantly chauffeur work carried out by way of a contract rather than the traditional private hire of making a phone call to an operator. The vehicles have to be high spec and are predominantly high spec Mercedes. They carry out a lot of MOD and top business contracts with very little public safety risk. The only other vehicles are a small number of novelty hire vehicles, these are often unique vehicles used very rarely as private hire and the risks are minimal. The proprietor of a restricted vehicle can ask for an exemption from the need for stickers.</p> <p>Operators will naturally wish to fulfil a job with one of their own vehicles but are able to pass the booking to another operator to ensure the customer receives a service and is not left stranded.</p> <p>The legislation was applied and a change of policy was adopted by the committee to allow a more modern means of communication to be used on the door sticker instead of a traditional phone number.</p> <p>The licensing policy is about public safety, the benefits of setting these standards is to improve customer confidence which should result in increased use of Southampton licensed vehicles in our city.</p>
More clarification on door stickers (Under other comments)	<p>The legislation allows the licensing authority to apply conditions as it sees fit. Conditions cannot go against other legislation. A condition for door signs in either option is lawful</p> <p>Licensed vehicles, unlike a normal private car, are able to travel to nearly any location at any time of the day or night and not raise suspicion, making it an ideal vehicle for criminal activity. For this reason it is important they are clearly identifiable and licences are only granted to those worthy.</p>

TAXI CAMERAS

ISSUE RAISED	COMMENT
Concern over 24hour dashcam footage	The Council's taxi cameras are not dashcams. This comment is referring to vehicles where in addition to the required taxi camera an individual has fitted a dashcam to the vehicle. The licensing authority expect such cameras to be compliant with the Information Commissioners directives. It is a matter for the ICO to regulate these cameras.
Cameras to record external as well as internal	The evidence to support the use of cameras is in relation to events within the cab of the vehicle. Recording outside multiplies by a significant amount the volume of data collected that we cannot justify collecting. It would lead to a significant increase in requests for data that officers would struggle to keep

	<p>up with and therefore increase the cost to the service with increased officer time.</p>
<p>Lack of police support/no point in cameras</p>	<p>Camera data has been provided to support investigations into non payment of fare, however police will usually require more than just the cameras evidence to secure a conviction.</p> <p>Taxi camera data has assisted in corroborating accounts where complaints are made when it is often one person's word against another and the camera is the only independent corroborating evidence. It has been used to support both complainants accounts as well as drivers.</p> <p>Apart from the incidents the camera records the installation of cameras prevents an unknown number of incidents as people's behaviour changes when they know they are being recorded.</p>
<p>Does not safeguard/ more is needed</p>	<p>As above it is not known how many incidents cameras have prevented. Data from cameras have been used in serious crime investigations including murder and rape for crimes away from the car. For offences from within the car sexual assault, assaults and abuse investigations have all benefitted from the cameras.</p>
<p>Invasion of customer privacy</p>	<p>There is an exemption that can be applied to limousines undertaking contract work only.</p> <p>The system is not monitored and data is only ever recovered or viewed when strict criteria are met. There are only 5 individuals approved to download data</p> <p>See above re dashcams</p>
<p>Cameras should not be on when car is in personal use</p>	<p>The vehicle remains a licensed vehicle regardless of the purpose it is being used. The vehicles are clearly liveried as licensed vehicles and anyone approaching the vehicle should expect the protection the policy and conditions afford. The data would only be viewed if the strict criteria of the download policy was met.</p> <p>Providing an off switch undermines the requirement. Sadly we have a number of incidents over the years, including a number caught on camera, of drivers taking advantage of vulnerable passengers at the end of the journey. The camera data was the only independent evidence to support the allegations and has resulted in a number of drivers losing their licences. The worst year 3 drivers were caught taking advantage of their vulnerable passenger. Providing an off switch, even with a delay, would afford a driver the opportunity to drive the vehicle with no camera, this places the driver and public at risk.</p> <p>The Information Commissioners Office challenged the policy of the council to permanently record audio data in 2012. This resulted in a Tribunal hearing</p>

	that found the permanent recording of audio data to be illegal and this resulted in the audio data only being triggered by the use of a button.
In support/necessary	<p>In the last financial year we conducted 158 downloads of taxi camera data. This was to support mainly police investigations, a considerable proportion for offences not connected to the driver. They have assisted in complaints and have been used in committee hearings leading to revocation of licences.</p> <p>Taxi camera data has also been used to support driver accounts in complaints, the most notable incident was a complaint of abuse by the driver but when the footage was seen the complainant was seen to assault the driver and this data was key in securing a conviction against the passenger.</p>
Unfair as cars from other areas without cameras work in Southampton	<p>The vast majority of trips carried out in Southampton are by Southampton licensed vehicles. We promote our cars as having superior safety because of the cameras to encourage the public to use Southampton licensed vehicles.</p> <p>In 2019 a driver from another Hampshire licensing authority was convicted of raping his passenger. It was commented at the time a camera would have assisted the investigation and may even have prevented the offence.</p> <p>The legislation prevents us requiring the other areas from meeting our standards. We set our policy and conditions to meet the needs of our city.</p>
Should record 24/7	<p>This is not practicable as it would drain the battery of the vehicle.</p> <p>If drivers want to be protected from approaching abusive customers the camera can be activated by turning on the ignition as the customer approaches.</p> <p>The camera remains active for 20 minutes after the ignition is turned off, so a lot of conversations are recorded as a vehicle is not normally stationary on a rank for more than this. (Covid is the exception here.)</p> <p>The camera remains active all the time until 20 minutes after the ignition is switched off and therefore captures practically everything that happens in the vehicle when it is in use.</p>
Costs	<p>The law requires the Council to be the data controllers of the data captured by the taxi cameras and we have a duty to protect that data, the main part of this is the encryption of the data which is required to be at a high specification for us to meet our obligations. This encryption dramatically increases the cost of system.</p> <p>Each system has its own software to manage the system including the downloads. Each system is different. To manage this we restrict the number of systems we will approve to 5. This allows for competition in prices.</p> <p>The council do not set the prices, the suppliers do.</p>

	<p>The cost of the camera is a legitimate business expense that can be claimed on tax returns.</p> <p>The original cameras are now 12 years old and no longer available. One system was giving a high failure rate as it came to the end of its life. This camera is no longer available. Current models perform well.</p>
Other comments	<p>We intend to maintain the exemption policy</p> <p>When cameras were first introduced it was on a voluntary basis and the take up was only 15%. Unfortunately it often takes a serious incident to occur to an individual before they fully appreciate the value of the system but then it is too late.</p> <p>The data is personal data and needs to be kept safe. Access has to be restricted to only those that need to access it. Individuals can make a subject access request for the data held on cameras.</p> <p>All vehicles are fitted with signs advising recording is taking place.</p> <p>See comment above about ICO challenge in 2012.</p>

OTHER COMMENTS ON POLICY

Too complicated	<p>We have tried to simplify the policy by providing an overarching policy with appendices of policies and conditions for specific areas of taxi licensing.</p>
Driver's code of conduct	<p>It is guidance which contains recommendations. In the same way the as the Highway code works, a breach of the code may not in itself be an unlawful act but by not following it will be supporting evidence in any complaint or breach of condition.</p>
Lack of public understanding	<p>It is correct a large proportion of society do not understand the differences between a hackney carriage and a private hire vehicle. We do address this on our webpages , in communications we put out and at events such as students freshers week.</p>
Removal of parking condition for private hire vehicles	<p>The condition is not enforceable. It was on private hire vehicles, so the proprietor, who may not be the driver. Private hire driver licences have appropriate, enforceable conditions to deal with private hire vehicles acting unlawfully.</p>
Conditions cannot be applied to Hackney Carriage drivers	<p>Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 provides for a licensing authority to apply conditions to a private hire driver licence. There is no such provision in this Act or any other to apply conditions to hackney carriage drivers. This has been supported in the courts. To address this we are introducing a code of conduct for drivers.</p>

<p>The consultation process</p>	<p>The consultation was following the statutory guidance from the Department for Transport. Concerns with that document need to be taken up with them directly.</p> <p>Over 300 responded to this consultation. We advertised to various groups and on the taxi noticeboard that both the licensing manager and Senior Licensing Officer for taxis would be available through MS Teams to discuss the policy and consultation at 3 separate times through the day on a date in the middle of the consultation. No one attended.</p> <p>The policy complies with natural justice, is reasonable and proportionate. Hearings and meetings follow the rules and legislation relevant to them.</p>
<p>Leave it as it is</p>	<p>We are obliged to take note of the DfT statutory guidance and will have to provide justification for not adhering to it if challenged. Our current policy met the DfT document in most areas but not all and therefore needed to carryout this review.</p> <p>Technology and society move on and we need to review our policies to adapt to changing times.</p>
<p>Will cause financial hardship</p>	<p>The costs incurred by drivers as a result of the changes will increase but only by a small amount, it is likely to be less than £30 a year. Business costs can be applied as legitimate expenses in tax returns.</p> <p>The council currently have some of the lowest licence fees in region.</p> <p>The fees are ring fenced and cover the cost of providing the licensing service and no more.</p>
<p>Must protect drivers</p>	<p>Driver protection is a priority. These policies protect drivers such as cameras, driver hours.</p> <p>We currently have over 1600 drivers licensed, an increase of at least 25% from 10 years ago.</p>
<p>Points system should be 9 rather than 6</p>	<p>Licensed drivers earn a living from driving the public around and it is therefore a reasonable expectation for such drivers to have higher standards than normal drivers.</p> <p>It is clear form this feedback and other informal feedback that 6 points is considered too low a threshold. Experience from Eastleigh who we also administer the taxi licence service for have a system that triggers at 9 points and has worked well.</p> <p>Recommendation to amend suitability policy latter part of para 43 to:-</p> <p><i>New applicants with more than 6 points on their licence will be refused. Any holders of a current driver's licence attaining 9 DVLA penalty points will be</i></p>

	<p><i>required to undertake a driver awareness course as directed by the licensing authority and pass a driver assessment within 2 months of conviction. Any failure and the licence will be revoked.</i></p> <p>Policy updated</p>
Cannot control driver's hours	<p>This is part of the driver code of conduct, it is a guide on expectations, falling short of it will raise questions about the fitness of an individual, it is not legislation or a condition of a licence.</p> <p>The council do not employ drivers but licence them. We are mindful of the recent court cases on employment rights. The council has a duty to protect the public, including licence holders and therefore consider the policy and conditions to be proportionate and necessary to achieve this.</p> <p>We have received reports of drivers working at night servicing the night clubs until 4 or 5am and then arriving in the docks to sleep in the car for a couple of hours to then service the cruise industry where there is always the hope of a London airport trip or even further. There are risks doing this and the code of conduct raises the issue of driving tired and the driver's responsibility to keep safe.</p> <p>After reports of a driver falling asleep at the wheel his licence was revoked.</p>
Improve disabled access and the number of accessible cabs	<p>70 of our 283 hackney carriages are wheelchair accessible vehicles.</p> <p>We are aware there are difficulties for those with mobility issues in accessing suitable licensed vehicles however there is not an easy solution. We could seek a change in policy to require all new or replacement vehicles from a date in the future to be accessible vehicles and this would make, over a period of time, all of our licensed vehicles wheelchair accessible. However this is likely to lead to a significant exodus of SCC licensed vehicles, drivers and operators to licence elsewhere but continue to work in Southampton. As Southampton is one of the few authorities that mandates taxi cameras we would be losing a significant safety feature for our travelling public.</p> <p>Demand for hackney carriages has been reducing and was severely impacted by the Coronavirus restrictions, there is no evidence to support an increase in the number of hackney carriage plates to be issued. This would be the only way to increase the number of accessible vehicles.</p>
Disagreement with taxi licensing in general	<p>The letter from the Transport minister that accompanied the launch of the DfT statutory guidance made it clear the intention was to introduce the policy quickly and advised they were going to check on progress in January 2021 and continue to monitor it.</p> <p>Taxi fees are regularly reviewed but fees are set based on predictions which sometimes turn out to be inaccurate.</p> <p>The legislation is outdated and has relied upon case law to shape what is and what is not allowed. Case law supports the use of modern technology</p>

	allowing automated systems to be used. The licensing team carry out checks to ensure all operators licensed by us are compliant with the legislation.
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OTHER COMMENTS

Public awareness of the differences between hackneys and private hire	The council webpages do explain the differences. We have placed posters at ranks previously and will work with communications team on the matter.
Out of city cars	It is perfectly lawful for vehicles licensed elsewhere to work in the city, this has always been the case, the use of phone apps has made this more attractive. We will always prefer people to licence in the area they intend to work.
Trade reps should be drivers only	The taxi trades are made up of drivers, operators and proprietors and all should be included in any consultation involving the whole trade.
Standard of English	The driver policies include a requirement to pass an oral and written assessment in English.
Do not agree taxis are high risk environment	The vast majority of the taxi trade are good, honest, decent people who uphold the law. However there are characteristics of a taxi that make them attractive to some with ill intent. The vulnerable often rely on taxis to transport them safely and so measures have to be put in place to protect the public. The risk posed is recognised in law with the hackney carriage drivers and private hire drivers exempt from the Rehabilitation of Offenders Act.
Consultation group make up	It is good practice to hold regular meetings with representatives of the trade. We currently have a process where we meet every three months with a mix of elected trade reps and invited individuals either part of the trade or users of taxis. We continue to work with the trade to improve how this set up works but as can be seen in the comments for this consultation individuals have opposing views on a range of subjects.
Dress code should not apply to hackney carriage drivers	As stated earlier this is not a condition but a guidance document, breaches may raise the question of suitability. As the trade are often the first point of contact in our city it is important to set a positive image of the city.
Trade reps code of conduct	This sets out the conduct expected of trade reps.
Multiple convictions	Eastleigh are currently consulting on a similar policy and the use of the word 'multiple' is included. Any driver attracting multiple convictions is a concern.
Record of complaints and expiry date	The record of complaints is GDPR and Data Protection Act compliant. A single complaint over three years ago is unlikely to have any relevance, however a

	complaint more than three years old but is part of a series of complaints of a similar nature may still be relevant to show a pattern of behaviour.
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