

Meeting of:	<b>Public Protection Licensing Committee</b>
Date of Meeting:	<b>Tuesday, 09 March 2021</b>
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	REVIEW OF PRIVATE HIRE OPERATOR CONDITIONS
Purpose of Report:	To consider updating the current private hire operator conditions in line with new statutory standards published by the Department for Transport (DfT) following a consultation with the trade
Report Owner:	Director of Environment & Housing Services
Responsible Officer:	Director of Environment & Housing Services
Elected Member and Officer Consultation:	None
Policy Framework:	This is a matter for the Public Protection Licensing Committee
Executive Summary:	<ul style="list-style-type: none"> <li>This report is to seek approval to replace and update the current private hire operator conditions following a consultation with the trade.</li> </ul>

## **Recommendations**

1. It is recommended that the Committee:
  - (i) Replace the current private hire operator conditions with the proposed conditions detailed at Appendix B with immediate effect;
  - (ii) Allow a grace period of 6 weeks for existing private hire operators in relation to compliance with the conditions detailed in Appendix B.

## **Reasons for Recommendations**

1. (i) To ensure that any conditions imposed on private hire operator licences represent statutory standards set out by DfT in the interest of public safety.
  - (ii) To afford existing private hire operators time to update their current procedures to ensure compliance with the conditions.

## **1. Background**

- 1.1 Under the Local Government (Miscellaneous Provisions) Act 1976 the Council may attach any conditions to the grant of a private hire operator licence that they consider reasonably necessary.
- 1.2 The Vale of Glamorgan Council's current private hire operator conditions have been in place for many years and in response to new statutory standards published by the Department for Transport (DfT), it is thought to be an appropriate time to review the current conditions in an attempt to bring them in line with the new standards. The current private hire operator conditions are detailed at Appendix A.
- 1.3 A draft set of conditions has been produced which detail the proposed requirements for private hire operators. A copy of the draft conditions are detailed at Appendix B.

## **2. Key Issues for Consideration**

- 2.1 As the Licensing Authority for The Vale of Glamorgan Council, it is important that we are confident that the operators that we licence are 'fit and proper' and do not pose a threat to public safety. One way this can be achieved is by imposing conditions onto the licence.
- 2.2 The Department for Transport (DfT) have recently published statutory Taxi and Private Hire Vehicle Standards with the intention that these are adopted by all local authorities as a minimum "unless there is a compelling local reason not to".
- 2.3 DfT advise that whilst the focus of the standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations. They go on to say that the standards set out are the result of detailed discussion with the

trade, regulators and safety campaign groups and there is a consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector.

- 2.4** The statutory standards set out by DfT will continue to have an effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. However, should Welsh Government introduce legislation to regulate on these issues, then these standards would cease to apply.
- 2.5** In response to the statutory standards a review of the Vale of Glamorgan's current private hire operator conditions has been conducted and a new set of proposed conditions produced with public safety at the forefront of the agenda. The proposed conditions cover the following elements.
- General Operating
  - Complaints System
  - Driver and Vehicle Records
  - Disclosure & Barring Service Checks
  - Notification of Conviction
  - Business Premises
  - Booking Records
  - Personal Data
  - Working Hours
  - Insurance
  - Ride Sharing/Car Pooling
  - Standards of Service
  - Public Service Vehicles

The proposed conditions are detailed in Appendix B.

- 2.6** The Licensing Authority has consulted with private hire operators currently licensed by The Vale of Glamorgan Council along with The Vale Taxi Association on the proposed conditions detailed in Appendix B.
- 2.7** Two responses were received in relation to the consultation, these were from licensed private hire operators within The Vale of Glamorgan. The responses stated:
- "I have looked through the proposal and all seems ok".
  - "Enabling an enforced 30-minute break after 5.5 hours would require a tech change which can take some time, so we would kindly request that plenty of notice is given before this condition comes into effect".

No other responses were received.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** The Well-Being of Future Generations Act 2015 ('the 2015 Act') sets out new ways of working - of planning and making decisions - for local authorities and other public bodies it lists. The proposal supports the well-being outcome of An inclusive and Safe Vale

### **4. Resources and Legal Considerations**

#### **Financial**

- 4.1** There are no financial implications. Publication of the conditions will be met from existing budgets.

#### **Employment**

- 4.2** None.

#### **Legal (Including Equalities)**

- 4.3** When considering any application for a private hire operator licence, the Council, in accordance with Section 55 (1) (a) (i) of the Local Government (Miscellaneous Provisions) Act 1976 shall not grant such a licence unless they are satisfied that the applicant is a fit and proper person to hold such a licence.
- 4.4** Under Section 55 (3) of the Act the Council may attach to the grant of a private hire operator licence such conditions as it may consider reasonably necessary.
- 4.5** Licence holders may appeal any decision to refuse to grant a licence under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 or a decision to revoke or suspend a vehicle licence under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 to the Magistrates' Court.
- 4.6** DfT's Statutory Taxi and Private Hire Vehicle Standards state:
- "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 Police 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."

#### **4.7** Equalities Act 2010

The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics.

### **5. Background Papers**

Department for Transport's (DfT's) Statutory Taxi and Private Hire Vehicle Standards:

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



### **Vale of Glamorgan Conditions for Private Hire Vehicle Operators**

1. The operator shall keep a copy of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 upon their premises at all times and shall be fully conversant with this legislation.
2. The operator shall notify the Licensing Authority immediately of any change or proposed change of address of the premises for which a private hire vehicle is operated or any additional premises from which such operations are to be conducted.
3. This licence shall not be transferable.
4. The licence shall remain the property of the Licensing Authority at all times and shall be returned to the Licensing Authority on the revocation, suspension or non-renewal.
5. The operator shall ensure that any equipment in the vehicle used for sending and receiving wireless signals shall be operated in accordance with the statutory requirements.
6. The operator shall make and keep a record before the commencement of each journey, of the place of commencement and termination of the journey, the name and where practicable the address of the hirer, the date and time of the hiring and must be able to identify the vehicle and driver employed on the journey. If the hiring is made at the request of another operator, the name and address of that operator shall also be stated. These records shall be kept in permanent book form or other agreed means, such as on a computer, and shall be kept at the premises stipulated on the licence.
7. If records are kept electronically they must be kept in accordance with the Data Protection Act 1998 and for a minimum of 12 months. The operator must have a means of producing the information kept on the request of an authorised officer. Access to the records must be given to an authorised officer on request.
8. The operator shall keep a record in permanent book form, supplied and owned by the Vale of Glamorgan Council, or other agreed form, the particulars of all Private Hire Vehicles operated under the licence and the driver's used by the operator. The operator shall enter therein, in respect of each vehicle the type and make of the vehicle, the vehicle registration number, the name and address of the owner of the vehicle, the private hire vehicle licence number and its expiry date. He/she shall also enter therein the name and address of driver's used, their licence number and its expiry date.

9. The operator shall produce the records referred to in conditions 6, 7 and 8 above, on request to any authorised officer of the Council, or to any police constable for inspection and permit them to take copies thereof.
10. The operator shall keep all premises to which the public may resort in the course of this business in a clean and tidy condition at all times.
11. If the premises are open to the public the licence and attached conditions shall be displayed in a conspicuous and public place upon the operator's premises.
12. The licence holder, or if the licence holder is a company, the director or secretary, shall notify the Licensing Authority in writing, within seven days if
  - (a) he/she is convicted of any offence under the Road Traffic Acts or any regulations made there under, or
  - (b) he/she is convicted of any offence or receives a caution, warning, fixed penalty notice or any other type of penalty notice.
  - (c) he/she is subject of any pending criminal investigation and the outcome thereof.
13. The operator shall provide an efficient and reliable service and ensure the punctual attendance of a hired vehicle at the time and place arranged with the hirer.
14. Where Private Hire vehicles are operated using appropriate and calibrated taximeters, then the operator shall notify and supply the Licensing Authority with the rate at which those taximeters are set. They shall also immediately notify the Licensing Authority of any rate change and supply the relevant details.
15. The proprietor shall within seven days notify the Licensing Authority in writing of any complaint made to him/her regarding
  - (a) The conduct of the driver
  - (b) The condition of the vehicle.
16. The Operator shall accept bookings made by or on behalf of a disabled person who is accompanied by an assistance dog.
17. The Operator shall accept bookings made by a person who will be accompanied in a Private Hire Vehicle by a disabled person with an assistance dog.
18. The Operator shall ensure that no additional charge for carrying an assistance dog is made.

# Private Hire Operator Conditions

## Introduction

These conditions apply to private hire operators.

All reference to "Operator" in these conditions below means a person holding a licence to operate private hire vehicles issued pursuant to Section 55 of the Local Government (Miscellaneous Provisions) Act 1976.

'*Licensing Authority*' refers to the Vale of Glamorgan Council

'*Authorised officer*' – has the same meaning as in Section 80 of the Local Government (Miscellaneous Provisions) Act 1976

Any legal requirements that apply to the operation of a private hire operator licence are regarded as if they are conditions of the licence, whether specifically listed below or in the policy or not.

## 1. General

- 1.1 The operator must undertake sufficient checks to satisfy themselves that only suitable drivers are used (and continue to be used) in the course of their business. This will include checking and taking a copy of each driver's hackney carriage/private hire driver's licence prior to that driver undertaking any bookings. The failure of an operator to ensure that appropriate checks are carried out may call into question the operator's fitness and propriety. In addition, a failure to take appropriate action in relation to drivers that persistently breach licence conditions may also be detrimental to the continued fitness and propriety of the operator.
- 1.2 Where an operator dismisses or disengages a driver they must report the dismissal and reasons for it to the Licensing Authority within **48 hours** of the dismissal taking effect.
- 1.3 The Operator must notify the Licensing Office, in writing, within **5 working days** if they, any company director, or any individual named on the application form:
  - a) changes home address
  - b) changes any of their contact details e.g. telephone number, email address
  - c) if any company or limited liability partnership changes its registered office
  - d) if any changes are made in the ownership/management/partnership of the operation as specified in your application form. Please note that new owners or additional partners will be required to have a basic DBS disclosure. The transfer of the operator's licence will not be completed until the Licensing Authority has received a copy of the disclosure.
  - e) If a director or nominated responsible person ceases to be employed in this capacity
- 1.4 The operator must inform the Licensing Authority if they or the person running the business are going to be absent from the day to day running of the business for a period of 2 consecutive months. In doing this, the operator must give the name of the person that will be responsible for the running of the business on their behalf during this temporary period.



- 1.5 The Operator must not use, or facilitate the use of, any software, technology or other device that is capable of impeding the lawful activities of enforcement agencies or the regulatory activity of the Licensing Authority.

## 2. Complaints System

- 2.1 Private Hire Operators or an appointed representative from within the business must initiate an investigation into any complaint received from the public within 48 hours from receipt of the complaint.
- 2.2 The operator must maintain a register of complaints (digital or hard copy), which must include the following information:
- a) Complainant's name, address/email address
  - b) Details of the complaint
  - c) Time and date of the alleged incident
  - d) Time and date the complaint was received by the operator
  - e) How the complaint was received e.g. phone, email etc.
  - f) Name of person that received the complaint.
  - g) Name of the alleged perpetrator
  - h) If the complaint was referred to the Licensing Authority –time and date of when it was referred and who by.
  - i) Details of the action taken to resolve the complaint and by whom
  - j) Date the complaint was resolved
- 2.3 A copy of the complaints register must be available for inspection upon request of an authorised officer of the Licensing Authority. The records must be retained for a period of 6 months.
- 2.4 The operator must on receipt of a complaint concerning a licensed driver, immediately notify the complainant of their right to direct their complaint to the Licensing Authority.
- 2.5 The Operator shall ensure that details of how a customer may contact the operator in the event of any complaint relating to a contract for hire or purported contract for hire relating to or arising from his business, are displayed on the operator's website, booking app or in the absence of online booking platform, at the booking office.
- 2.6 Where a complaint is received by the Licensing Authority, the operator must comply with any reasonable request for information and/or follow any reasonable directions/instructions made by an authorised officer or police officer in respect of the complaint
- 2.7 The Operator must notify the Licensing Authority within **48 hours** if the operator receives a complaint about a driver operated by them when it has been identified that the complaint relates to any of the following:
- a) allegations of sexual misconduct (including the use of sexualised language)
  - b) racist behaviour
  - c) violence (including verbal aggression)
  - d) dishonesty including theft
  - e) Equality breaches

- f) any other serious misconduct (including motoring related for example dangerous driving or drink driving).

### **3. Driver and Vehicle Records**

- 3.1 The Operator must maintain and keep up-to-date the following records which must be immediately available for inspection on demand by any authorised officer of the Licensing Authority or police constable:
  - a) name and home address of every private hire vehicle driver operated by him;
  - b) details including licence number and date of expiry of the private hire driver's licence of every private hire vehicle driver operated by him;
  - c) name and home address of the proprietor of every private hire vehicle operated by him;
  - d) details including the private hire licence plate number and expiry date and vehicle registration number of every private hire vehicle operated by him

### **4. Disclosure & Barring Service Checks**

- 4.1 All applicants for a grant or renewal of a Private Hire Operator's licence must submit a Disclosure & Barring Service basic disclosure (dated within one month of the application) in order to satisfy the authority that they are a 'fit and proper' person. In the case of applications from a company or organisation, all directors of the company/organisation must provide a basic disclosure. The cost of these checks will be covered by the applicant/licence holder.
- 4.2 Following the grant of a licence, licence holders must submit a new basic disclosure to the Licensing Authority annually.
- 4.3 Applicants that already hold a hackney carriage or PHV driver's licence with this authority are not required to provide the basic disclosure as part of their application for a private hire operator's licence. As long as licence holders continue to hold a hackney carriage or PHV driver's licence with this authority they are not required to submit a yearly basic disclosure.
- 4.4
  - a) The operator must view a basic DBS certificate (dated within one month of the check) of any staff that have access to booking records or dispatch vehicles.
  - b) The operator must maintain a register of all such staff which shall include a record of when each DBS check has been undertaken. This register must be available for inspection by an authorised officer of the Licensing Authority upon request. The register should include the following:
    - i. the date that person's employment in that role commenced
    - ii. the date the operator checked the DBS certificate
    - iii. the name of the person that checked the DBS certificate
    - iv. The date the person ceased to perform that role.
  - c) The register must be retained for 6 months in line with the booking records.
  - d) Should an employee cease to be on the register and later re-enter the register a new basic DBS certificate (or use of the Update Service) should be viewed by the operator.

- 4.5 Where the applicant/operator employs or intends to employ persons involved in taking bookings or the dispatch of vehicles, the operator must produce a policy on the employment of ex-offenders in those roles. The policy must be available for inspection on request of an authorised officer of the Licensing Authority.
- 4.6 The Operator must require that all staff employed in taking bookings or dispatching vehicles to report to them within 48 hours of any conviction, binding over, caution, warning, reprimand or arrest for any criminal matter whilst they are employed in this role.
- 4.7 The operator must make certain that any outsourced booking and dispatch functions have adequate safeguarding measures in place for the protection of children and vulnerable adults. The operator must have required evidence of this from the company before outsourcing these functions.

## **5. Notification of Convictions**

- 5.1 Within **48 hours** of any arrest and release, and then after any subsequent conviction, binding over, caution, warning, reprimand or arrest for any criminal or motoring matter (whether or not charged) imposed on him / her during the period of the licence, the licence holder must notify the Licensing Authority with full details of the matter(s).

### **What must be reported:-**

- a) Any conviction (criminal or motoring matter);
- b) Any caution (issued by the Police or any other agency);
- c) Issue of any Magistrate's Court summonses against you;
- d) Issue of any fixed penalty notice for any matter;
- e) Any harassment or other form of warning or order within the criminal law including anti-social behaviour orders or similar;
- f) Arrest for any offence (whether or not charged);
- g) Any acquittal following a criminal case heard by a court;
- h) Any refused of any type of licence by any other regulatory authority or any such licence is suspended, revoked or not renewed.

## **6. Business Premises**

- 6.1 The Operator must provide the Licensing Authority with the address of the premises within the Licensing Authority area from which the business will be carried on.
- 6.2 Where the operator's premises is used by the public it must be kept clean, adequately heated, ventilated and illuminated.
- 6.3 The operator shall ensure that any waiting area provided for the use of prospective hirers shall be provided with adequate seating and kept physically separate from any drivers resting area and operations room.
- 6.4 The private hire operator's licence must be displayed in a prominent position at any premises from which the operator operates. Any personal details such as home address of the licence holder should be redacted from the display copy prior to being displayed.

- 6.5 The operator shall provide a copy of these conditions of licence to the public upon request.

## **7. Booking Records**

- 7.1 The operator must keep a record of every private hire booking either in writing in a suitable durable book which has consecutive page numbers or a computerised booking and dispatch system. If a book is used, all entries must be clear, in English and easily legible, with no line spaces or blank pages. If a computerised booking system is used, it must be able to produce a print out of any records requested by an authorised officer or police constable at all times.
- 7.2 For all accepted bookings an entry shall be made in the record book or computerised booking and dispatch system that shall include:
- a) The name of the person making the record (if not made by a computerised system)
  - b) The time and date on which the booking is made and,
  - c) The name of the person for whom the booking is made
  - d) Contact details of the person the booking is made for (email address or phone number)
  - e) The agreed time and place of collection, or, if more than one, the agreed time and place of the first place of collection
  - f) The destination – as a minimum this should include the street and/or building name and postal area. Where possible it should include a full postcode.
  - g) The time the journey was completed
  - h) The total cost of the completed journey
  - i) The hackney carriage/private hire driver's name
  - j) The hackney carriage/private hire driver's licence number
  - k) The registration number of the vehicle allocated to the booking
  - l) The name of any individual that responded to the booking request
  - m) The name of the person that dispatched the vehicle (if not dispatched by computerised system)
  - n) If applicable, the name of the other operator from whom a booking was received and / or to whom the booking was subcontracted.
- 7.3 Any amendment must be made to the original record by way of an addition.
- 7.4 All records of private hire bookings, whether retained in a book or on a digital format, must be retained for at least 6 months from the date of the last entry and be readily available for production to an authorised officer of the Licensing Authority or police constable for inspection at any time during the hours of operation.

## **8. Personal Data**

- 8.1 The loss of personal data by theft or otherwise must be reported to the Licensing Authority in writing within 24 hours, and also immediately to the police in the event of theft being suspected. To note, a data loss may also need to be reported to the Information Commissioner's Office, for more information see: <https://ico.org.uk/for-organisations/report-a-breach/>

## **9. Working Hours**

- 9.1 The operator must take steps to ensure that drivers do not work excessively long hours. Drivers should not be permitted driver for more than 10 hours per day and must have a break lasting at least 30 minutes after driving for 5.5 hours. The driver must also have a break at the end of this period, unless it's the end of the working day.

## **10. Insurance**

- 10.1 Operators must ensure that at all times there is in force, for all private hire vehicles operated, a policy of insurance covering the carriage of passengers for hire or reward by pre-booking only or such security as complies with the requirements of Part VI of the Road Traffic Act 1988.
- 10.2 Any premises that provide access to members of the public must be covered by Public Liability insurance.
- 10.3 Operators must ensure that where a vehicle is covered under a fleet insurance policy, drivers are aware of the content of the policy, including its limitations and exclusions. The operator must keep a record, signed by the driver, within each individual's record file when this has been completed. A copy of any individual's records must be produced, on request, to any authorised officer of the Licensing Authority.

## **11. Ride Sharing/Car-pooling**

- 11.1 There shall be no Ride Sharing/Car Pooling.

## **12. Standards of Service**

- 12.1 The operator must provide prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose must in particular:
- a) Provide adequate information and communications technology, facilities and staff, as appropriate.
  - b) Ensure the highest level of customer service and care.
  - c) Ensure that when a private hire vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.
  - d) Ensure that any telephone facilities and radio equipment (for which an OFCOM Radio Licence may be required) are maintained in a sound condition and that any defects are repaired promptly.

## **13. Public Service Vehicles**

- 13.1 Public Service Vehicles (PSVs) may not be used to undertake a private hire vehicle booking, unless with the informed consent of the hirer.

## **Notes**

- I. These conditions should be read in conjunction with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

- II. Operators must conduct their business in accordance with all relevant statutory provisions. This includes health, safety and welfare legislation, environmental legislation and equalities legislation.
- III. The Operator must not fail or refuse to accept a booking by or on behalf of a disabled person accompanied by an 'assistance dog' when the reason for failure or refusal is that the disabled person will be accompanied by the 'assistance dog'
- IV. Failure to declare any conviction within the required timescale together with the nature of the conviction will be taken into account in deciding whether a licence holder is a fit and proper person to hold a hackney carriage/private hire driver licence. This may result in the suspension, revocation or refusal to renew the private hire driver licence.
- V. **Any infringement of the licensing conditions could lead to suspension or revocation of the licence.**
- VI. Any person aggrieved by any conditions specified in the licence may appeal to a magistrate's court within 21 days of issue.
- VII. The renewal of a licence should be made in advance to ensure continuity. There is no automatic period of grace. Unlicensed operation of private hire vehicles is an offence.
- VIII. All operators must comply with their obligations under the Data Protection Act 2018 and should be registered with the Information Commissioner