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AGENDA

Committee	PUBLIC PROTECTION COMMITTEE
Date and Time of Meeting	TUESDAY, 3 NOVEMBER 2020, 10.00 AM
Venue	REMOTE MEETING VIA MS TEAMS
Membership	Councillor Mackie (Chair) Councillors Sattar, Asghar Ali, Derbyshire, Goddard, Hudson, Jacobsen, Lancaster, Dianne Rees, Robson and Wood

1 Apologies for Absence

To receive apologies for absence.

2 Declarations of Interest

To be made at the commencement of the agenda item in question, in accordance with the Members' Code of Conduct.

3 Minutes *(Pages 3 - 8)*

To approve as a correct record the minutes of the meetings held on 6 October 2020.

4 Private Hire Operator Conditions *(Pages 9 - 66)*

5 Urgent Items (if any)

Davina Fiore

Director Governance & Legal Services

Date: Wednesday, 28 October 2020

Contact: Graham Porter,

02920 873401, g.porter@cardiff.gov.uk

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PUBLIC PROTECTION COMMITTEE

6 OCTOBER 2020

Present: County Councillor Mackie(Chairperson)
County Councillors Sattar, Asghar Ali, Derbyshire, Goddard,
Hudson, Jacobsen, Lancaster, Dianne Rees, Robson and Wood

7 Apologies for Absence

None received.

8 Declarations of Interest

None received.

9 Minutes

The minutes of the previous meetings listed below, were approved.

Public Protection Sub Committee – 3/3/2020

Public Protection Committee – 15/7/2020

Public Protection Sub Committee – 1/9/2020

10 Replacement of BTEC with SQA Level 2 Certificate

Members were advised that at its meeting of 3 November 2009 the Committee first agreed to introduce a requirement that all applicants for the grant of a Hackney Carriage/Private Hire Driver's Licence, who have not previously held a licence in the past twelve months, be required to produce evidence of having successfully completed a BTEC qualification in 'Transporting Passengers by Taxi and Private Hire'.

On 8 February 2011 the Public Protection Committee agreed to replace the BTEC qualification with a new BTEC accredited qualification in the 'Introduction to the Role of the Professional Taxi or Private Hire Driver'.

The current provider of the BTEC qualification; Pearson have advised that they are withdrawing the qualification. The last test date will be 31 January 2021 and the last certification date will be 28 February 2021. As a result of the withdrawal of the BTEC qualification the Licensing Authority has been researching alternative qualifications.

The qualification found to most suit the needs of the Licensing Authority is provided by the Scottish Qualifications Authority (SQA) and is a Level 2 Certificate in 'Introduction to the Role of the Professional Taxi and Private Hire Driver'

SQA describe the qualification as providing *"learners with an understanding of current legislation and good customer service. It develops and enhances the range of skills and techniques required to deliver high-quality services to the travelling public"*.

To obtain the qualification, learners would have to achieve the following modules:

- Workplace Health and Safety
- Safety Transport Passengers
- Professional Customer Service
- Maintain the Safety of the Licensed Vehicle
- Mobility and Wheelchair Assistance
- Plan Routes and Fares
- Transport Luggage and Parcels
- Safely Transport School Age Children
- The Licensing Regulations

This SQA qualification will not only continue to contain key elements necessary for training applicants for the grant of a licence but has the added benefit of including safeguarding as part of the 'Safely Transport School Age Children Module'. This includes:

- Know the types of illegal activity that perpetrators use for personal satisfaction or monetary gain:
 - sexual gratification
 - use of drug mules
- Identify the common feature of perpetrator behaviour and grooming
- Describe the impact of exploitation on a school age child
- Understand the importance of Codes of Conduct and values that underpin the rights of school age children
- Describe how contact or referrals can be made if school age child requires support for contact or non-contact abuse

Although this qualification has been available since 2011, the content was refreshed in 2018. This encompassed changes to the Equality Act, uplifts to fines and penalties, cloud-based dispatch systems and an increased emphasis around the safeguarding of school age children.

The Licensing Authority has consulted with known local training providers along with Cardiff Hackney Carriage Association on the proposal to adopt the SQA Level 2 Certificate in 'Introduction to the Role of the Professional Taxi and Private Hire Driver'.

Three responses were received in relation to the consultation all of which were in favour of the proposed SQA qualification.

The Chairperson invited questions and comments from Members;

Members asked questions around the assessment, and whether each module needed to be passed, if there were multiple choice questions, resitting etc. Members were advised that drivers are taken through each unit one by one, 1 day a week over 3 weeks, then

they sit an online exam. There are 4 choices of answer for each question. They are able to re-sit the exam 3 times. Prior to the exam, after each unit has been taught they are assessed and they are given a revision booklet, if they do their homework they should pass the exam. However if Mr Russell feels they need more help, he will discuss this with them.

Members asked if drivers' records are checked before they sit the course. Officers advised that a driver will make an application in principle, submit all relevant documentation, if there is anything of concern then it would go to Committee, then they sit the qualification.

Members asked where the assessment is undertaken and were advised that the qualification is sat at the assessment centre with an invigilator present. Officers added that SQA apply an enhanced process whereby they are notified in advance of when the assessments are taking place and they can pay an unannounced visit.

Members asked if the transport of animals was covered in the qualification and were advised that this is covered in one of the modules. Members were also advised that if a driver has an allergy then he needs to advise of this by means of a Doctor's note and would be exempt from certain jobs.

Members referred to the module on safely transporting school age children and sought clarity on whether it was brought in 2018 and whether there had been a review. Members were advised that it was brought in 2018 and as it is relatively new, no review had been undertaken as yet.

Members asked about the pass rate and were advised that it was 60% and this needed to be achieved on each module.

Steven Russell – Head of training and Independent Taxi Training Company (ITTCO) addressed Committee and explained that he has looked at each Module in depth and they covered everything the BTEC did but also had the addition of Safeguarding, County Lines and Child Exploitation, which he considered extremely important. The qualification has been updated for the 21st century and Mr Russell invited Committee Members to sit the course and see how it is delivered.

RESOLVED: That the for the purposes of applying for the grant of a Hackney Carriage and Private Hire Driver's Licence, the production of the SQA Level 2 Certificate in 'Introduction to the Role of the Professional Taxi and Private Hire Driver' be accepted as satisfactory evidence of the applicant having undertaken a suitable training course.

11 Urgent Items (if any)

None received.

The meeting terminated at 10.30 am

PUBLIC PROTECTION SUB COMMITTEE

6 OCTOBER 2020

Present: Councillor Mackie(Chairperson)
Councillors Lancaster and Jacobsen

3 : EXCLUSION OF THE PUBLIC

4 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

(1) Application 1

Adjourned sine die

The meeting terminated at 11.15 am

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CARDIFF COUNCIL
CYNGOR CAERDYDD

Agenda No.

PUBLIC PROTECTION COMMITTEE: 3 NOVEMBER 2020

Report of the Head of Shared Regulatory Services

Review of Private Hire Operator 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 Cardiff Council's current private hire operator conditions have been in place for many years and in response to new best practice 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. **Issues**

- 2.1 As the Licensing Authority for Cardiff, 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 A review of Cardiff Council's current private hire operator conditions has subsequently 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 Vehicle Records
- DBS Check
- Notification of Convictions
- Business Premises
- Booking Records
- Personal Data
- Working Hours
- Insurance
- Ride Sharing/Car-Pooling
- Standards of Service
- Public Service Vehicles

The proposed conditions are detailed at **Appendix B**.

3. Consultation

- 3.1 The Licensing Authority has consulted with private hire operators currently licensed by Cardiff Council along with the Cardiff Hackney Carriage Alliance, who are the formal trade representative of Cardiff.
- 3.2 A number of responses were received in relation to the consultation; seven from current private hire operators and one response from the Cardiff Hackney Carriage Alliance.
- 3.3 Following the consultation the proposed conditions were amended to reflect some of the views of the consultees; these conditions are detailed at **Appendix B** of the report.

Details of the comments received along with the amendments made as a result of the consultation are detailed at **Appendix C**.

4. Achievability

- 4.1 This report contains no equality personnel or property implications.

5. Legal Implications

- 5.1 Section 55 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1976 stipulates that the Council shall not grant a Private Hire Operator Licence unless they are satisfied that the applicant is a fit and proper person to hold such a licence. Furthermore, in accordance with Section 55 (2) of the Act the Council may attach conditions to the Private Hire Operator Licence that they consider to be reasonable and necessary.
- 5.2 Applicant of Private Hire Operator Licence have the right of appeal to the Courts against the refusal of a licence or in respect of conditions attached to a licence. Council's policies may be challenged by way of judicial review.

6. Financial Implications

- 6.1 There are no financial implications arising directly from this report.

7. Recommendation

- 7.1 It is recommended that the Committee consider the contents of the report and resolve to:
- a) Replace the current private hire operator conditions with the proposed conditions detailed at **Appendix B** with immediate effect.
 - b) Allow a grace period of 6 weeks for existing private hire operators in relation to compliance with the conditions detailed in **Appendix B**.

8. Reasons for Recommendation

- 8.1
- a) To ensure that any conditions imposed on private hire operator licences represent best practice standards recommended by DfT in the interest of public safety.
 - b) To afford existing private hire operators time to update their current procedures to ensure compliance with the conditions.

Dave Holland
HEAD OF SHARED REGULATORY SERVICES

1 October 2020

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background papers:

Department for Transport, Taxi and Private Hire Licensing Guide: Best Practice Guide
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904369/statutory-taxi-and-private-hire-vehicle-standards-english-28-07-2020.pdf

**PRIVATE HIRE OPERATORS LICENCE
CONDITIONS OF LICENCE**



1. On payment of the necessary fee, the licence remains in force for a maximum of five years.
2. The licence may not be transferred to any other person. Unless renewed, it must be returned on expiry to the authorised officer.
3. The licensee shall provide and keep a suitable register in which he shall enter before the start of each journey, the following particulars for each contract of hire:-
 - (a) The time of hire.
 - (b) The pick-up point.
 - (c) The place of destination.
 - (d) The name of the hirer.
 - (e) The licence number and registration number of the vehicle used.
 - (f) The details of the driver.

The records shall be kept for a minimum of six months, be in a chronological order and must be produced on request to an authorised officer of the Council or a police constable for inspection.

4. The licensee shall furnish to the Council details of the premises from which the private hire business will be carried on. He shall satisfy the Council that the premises comply with the relevant statutory requirements. In particular the licensee shall obtain any necessary planning permission for the premises used in connection with the business of operating private hire vehicles, and shall not engage in or allow or permit such operation until the necessary planning permission has been obtained.
5. The licensee shall provide and keep a suitable register in which he shall enter for each vehicle under his ownership details of make of vehicles, registration number, date of purchase, alterations in design or construction, date of sale/destruction, name and address of new purchaser and shall produce the same for inspection on request by an authorised officer of the Council or by a police constable.
6. Nothing in these conditions shall detract from the Council's duty to consider each case on its merits and these conditions shall be construed and applied accordingly.

Notes

- (a) The Council is not allowed to grant and Operators Licence unless it is satisfied that the applicant is a fit and proper person. It is therefore important that the applicant gives full and accurate answers to the questions on the application form.
- (b) Licence fees are reviewed annually and details of the current fees are available on request.
- (c) The renewal of a licence should be made in advance to ensure continuity. There is not automatic period of grace. Unlicensed operation of private hire vehicles is an offence.
- (d) Licences will not be issued until the appropriate fee is paid. Where payment is made by a cheque which is subsequently dishonoured, any licence issued will be null and void.
- (e) The Council has the power to suspend, revoke or refuse to renew the licence on the appropriate grounds. Where a licence has been obtained by giving false or incomplete information, consideration will be given to using these powers as well as prosecuting for the offence committed.
- (f) Operators should take care to avoid using unlicensed drivers or unlicensed vehicles. They should, therefore check that a driver has both a current licence from the Council and a badge, and that a vehicle is properly licensed and plated. Failure to do so may render the operator liable to prosecution.

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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 Cardiff 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) if any company or limited liability partnership changes its registered office
 - c) 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 n-enhanced DBS disclosure. The transfer of the operator's licence will not be completed until the Licensing Authority has received a copy of the disclosure.
 - d) 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 and/or the person responsible for 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.

~~1.6 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'.~~

~~1.7 The Operators must comply with all reasonable requests made by authorised officers 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:

- Complainant's name and address/email address
- Details of the complaint
- Time and date of the alleged incident
- Time and date the complaint was received by the operator
- How the complaint was received e.g. phone, email etc.
- Name of person that received the complaint.
- Name of the alleged perpetrator
- If the complaint was referred to the Licensing Authority –time and date of when it was referred and who by.
- Details of the action taken to resolve the complaint and by whom
- 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~~

2.6

- 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 thatif the complaint relates to any of the following:
- allegations of sexual misconduct (including the use of sexualised language)
 - racist behaviour
 - violence (including verbal aggression)
 - dishonesty including theft
 - Equality breaches
 - 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. DBS Check

- 4.1 All applicants for a grant or renewal of a Private Hire Operator's licence must submit a basic disclosure (dated within one month of the application) which can be obtained from Disclosure & Barring Service 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 director 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 yearly. All applicants/licence holders must sign up to the DBS Update Service and maintain their subscription for the duration of their licence. The licence holder must give permission for the Licensing Authority to undertake checks of their DBS status.
- 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 Licence holders must submit a basic disclosure to the Licensing Authority every year.~~
- 4.4 In order to assess the suitability of applicants and licence holders the licensing authority will have regard to Cardiff Council's 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades'.

- 4.5 Driving offences will not normally be considered as part of the assessment for private hire operator licence holders. ~~Information contained within an enhanced DBS check that would not be disclosed on a basic check will not be considered as part of the assessment for a private hire operator's licence.~~

5. Notification of Convictions

- 5.1 Within **48 hours** of any 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 (including company director or individual named on application form) must notify the Licensing Authority with full details of the matter(s).

What must be reported:-

- Any conviction (criminal or motoring matter);
- Any caution (issued by the Police or any other agency);
- Issue of any Magistrate's Court summonses against you;
- Issue of any fixed penalty notice for any matter;
- Any harassment or other form of warning or order within the criminal law including anti-social behaviour orders or similar;
- Arrest for any offence (whether or not charged).
- Any acquittal following a criminal case heard by a court.
- 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. ~~The operators shall comply with all relevant statutory requirements associated with the occupation of the premises.~~

~~6.2 The Operator must not conduct his business, nor employ or utilise any person to conduct his business in any premises, the use of which have not been approved by the Licensing Authority.~~

- 6.3 Where the operator's premises is used by the public it must be kept clean, adequately heated, ventilated and illuminated.

- 6.4 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.

- 6.5 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.

- 6.6 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 ~~hard back~~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 ~~At the time of accepting each~~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 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) The agreed time and place of collection, or, if more than one, the agreed time and place of the first place of collection
 - e) 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.
 - f) The time the journey was completed
 - g) The total cost of the completed journey
 - h) The driver's hackney carriage/private hire driver's licence number
 - i) The registration number of the vehicle allocated to the booking
 - j) The name of the person ~~or computerised booking~~ that dispatched the vehicle (if not dispatched by computerised system)
 - k) 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 operator must take steps to ensure that all staff involved in the handling of personal data, such as booking staff, managers etc. are of good character and that they have considered any convictions that would show on a Basic DBS certificate in line with their policy on employing ex-offenders. free from convictions relating to theft or dishonesty The operator should also make their policy on employing ex-offenders available to the Licensing Authority upon request.
- 8.2 The Operator must ensure that any personal information obtained during the course of their business is stored securely, and only retained for as long as is absolutely necessary. Access to this information must be restricted to only those persons who will use it for the purpose for which it has been collected.

- 8.3 Personal information must not be used for any other purpose other than that for which it was collected without the express permission of the individual to which the information relates.
- 8.4 The loss of records 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. You may also need to report the data loss 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 ~~to drive~~ 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.~~

~~At the time of booking, individual hirers must be made aware of and explicitly consent to bookings that are part of a ride sharing/carpooling journey.~~

- ~~11.2 As part of ride sharing/carpooling schemes, operators must offer the option to hirers to only share with other passengers of the same sex. If hirers select this option passengers of the opposite sex may not be added to the same booking.~~

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. Operators are reminded that they 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.

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Proposed Private Hire Operator Conditions – Possible amendments

Date received	Source	Comments	Response	Details of Amendment
10.09.2020	Lee Short on behalf of Executive Travel Service	"I have read through the conditions, all of which appear to be fair."	Comments noted.	N/A
16.09.2020	Jonathan Guest on behalf of Ola UK.	<p>Point 1 - Section 2.2 2.2 The operator must maintain a register of complaints (digital or hard copy), which must include the following information:</p> <ul style="list-style-type: none"> Complainant's name and address <p>Comments "What exactly do you mean here by address? If postal address, we can't currently comply. Would an email address be a suitable substitute?"</p> <p>Point 2 - Section 2.4 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</p> <p>Comment "We don't currently do this and would require a process change on our end, however this is feasible to implement."</p> <p>Point 3 - Section 2.7 2.7 The Operator must notify the Licensing Authority within 48 hours if the operator receives a complaint about a driver operated by them if the complaint</p>	<p>Point 1 – Section 2.2 Where available a postal address should be recorded however in circumstances where it is not for example; the complainant does not wish to disclose an email address would be a suitable substitute.</p> <p>Point 2 – Section 2.4 Comment Noted.</p> <p>Point 3 – Section 2.7 Comment Noted.</p>	<p>Point 1 – Section 2.2 Slight amendment to text to include email address would be suitable substitute in circumstances where an address is not provided by complainant.</p> <p>Point 2 – Section 2.4 N/A</p> <p>Point 3 – Section 2.7 N/A</p>

		<p>relates to any of the following:</p> <ul style="list-style-type: none"> · allegations of sexual misconduct (including the use of sexualised language) · racist behaviour · violence (including verbal aggression) · dishonesty including theft · Equality breaches · any other serious misconduct (including motoring related). <p>Comment “Types of complaint we must report to yourself are not currently defined. This will need updating on our end but again feasible to implement.”</p> <p>Point 4 - Section 8.1 8.1 The operator must take steps to ensure that all staff involved in the handling of personal data, such as booking staff, managers etc. are of good character and free from convictions relating to theft or dishonesty.</p> <p>Comment “We do this for our UK employees, however Indian based staff also have full access to all data. We would need to look into this further if so required.”</p> <p>Point 5 - Section 9.1 9.1 The operator must take steps to ensure that drivers do not work excessively long hours. Drivers should not be permitted to drive 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.</p>	<p>Point 4 - Section 8.1 Comment noted. It is considered appropriate and proportionate that the operator should take steps to ensure that anyone handling personal data is of good character and that any convictions have been considered.</p> <p>Point 5 - Section 9.1 Comment noted.</p>	<p>Point 4 - Section 8.1 N/A</p> <p>Point 5 - Section 9.1 N/A</p>
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		<p>Comment “Currently our fatigue policy only suggests to a driver at 5.5 hours that he should take a 30 minute break - it doesn't force them too. Should this be introduced we would need to implement a product fix to ensure this point is adhered to.”</p>		
18.09.2020	Sharyn Donnachie on behalf of Capital Cabs	<p>Point 1 – Section 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.</p> <p>Comment “My understanding is this already a condition; one Capital Cabs fully complies with.”</p> <p>Point 2 – Section 1.2 Where an operator dismisses a driver they must report the dismissal and reasons for it to the Licensing Authority within 48 hours of the dismissal taking effect.</p>	<p>Point 1 – Section 1.1 Comment Noted.</p> <p>Point 2 – Section 1.2 Whilst it is correct that non-payment of fees is a matter between the operator and driver, the reporting of dismissals will go some way to ensure that our records are kept up to date. The keeping of up to date records not only assists in report</p>	<p>Point 1 – Section 1.1 N/A</p> <p>Point 2 – Section 1.2 N/A</p>

		<p>Comments “One of the main reasons for dismissal of a driver is non payment of fees; in the past Cardiff Council have always stated this is a matter between the Company and the driver; has this changed? Unless the Council will now be assisting with these matters I see little point in referring them</p> <p>Private Hire Companies have rules regarding accepting and conducting passenger journeys what is acceptable to one may not be to another; the Council needs to further clarify what needs reporting e.g. If a driver is dismissed for dishonestly overcharging customer.</p> <p>Drivers are sometimes dismissed for a general bad attitude which is not a breach of licensing conditions the standards required by Private Hire Operators are generally considerably higher than those imposed by the Licensing Authority.”</p> <p>Point 3 – Section 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.</p> <p>Comments “Again, my understanding is this already a condition; one Capital Cabs fully complies with.”</p>	<p>writing and analytical data but can be beneficial to on-going investigations. Furthermore, this could highlight patterns of behaviour of drivers. For example; if a driver has been dismissed from a number of operators for a “general bad attitude”.</p> <p>Point 3 – Section 2.6 Comment noted.</p>	<p>Point 3 – Section 2.6 N/A</p>
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	<p>c) name and home address of the proprietor of every private hire vehicle operated by him;</p> <p>d) details including the private hire licence plate number and expiry date and vehicle registration number of every private hire vehicle operated by him</p> <p>Comments “Again, my understanding is this already a condition; one Capital Cabs fully complies with.”</p> <p>Point 6 – Section 7.2 At the time of accepting each booking an entry shall be made in the record book or computerised booking and dispatch system that shall include:</p> <p>e) 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.</p> <p>Comments “Very often passengers do not supply this information; this is impracticable if not impossible to comply with”</p> <p>Point 7 – 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.</p>	<p>Point 6 – Section 7.2 Recording the destination is already a requirement of the current operator conditions.</p> <p>On reflection it is evident that requesting the destination at the time of the booking does not necessarily reflect how the market works.</p> <p>The Licensing Authority requires that a destination is recorded but accepts that this doesn’t have to be at the time of accepting the booking. GPS co-ordinates would also be acceptable.</p> <p>Point 7 – 9.1 Disagree. The Licensing Authority are not suggesting that drivers are self-employed but just that operators take steps to ensure that any drivers that they ‘sub-contract’ do not work excessively long hours in the interests of public safety.</p>	<p>Point 6 – Section 7.2 Wording amended: “For all accepted bookings an entry shall be made in the record book or computerised booking and dispatch system that shall include:”</p> <p>Point 7 – 9.1 N/A</p>
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		<p>Comments “Drivers are self employed and retain the services of Private Hire Operators to secure passenger bookings. The Council will be fully aware of the current litigation between Uber and its drivers; the implementation of such a condition will go some way to suggest Private Hire Companies are employing driver which is absolutely not the case.”</p> <p>Point 8 – Section 11.1 Ride Sharing/Car-pooling At the time of booking, individual hirers must be made aware of and explicitly consent to bookings that are part of a ride sharing/carpooling journey.</p> <p>Comments “Cardiff Council does not currently allow for “taxi sharing” indeed a separate and distinct licence would be necessary for an operator to provide this service. Taxi Share schemes are required to follow set routes with set fare which have been authorised by the Licensing Authority. The inclusion of this point is misleading.”</p>	<p>Point 8 – Section 11.1 Comments noted. It is believed that further research is needed in relation to Ride Sharing/Car-pooling and as such it is felt at this time the Policy should reflect that no ride sharing should take place. The Licensing Authority can look at introducing this at a later date or when a request is submitted and a separate report can be put before Committee.</p>	<p>Point 8 – Section 11.1 Wording amended: “There shall be no Ride Sharing/Car Pooling”</p>
23.09.2020	Ramesh Valji On behalf of Tri Star Executive Travel	<p>Point 1 – Section 6.1 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.</p> <p>Comments “Please note the nature of my business is an executive chauffeur car service, so my views are from the way in which my business operates, at a guess we probably</p>	<p>Point 1 – Section 6.1 In accordance with the proposed conditions it would be required to be displayed in the part of your home in which you run your business.</p>	<p>Point 1 – Section 6.1 N/A</p>

		<p>take a maximum of around 5 bookings a week, compared to other private hire operators who may be taking in excess of 100 bookings per day, so our business operations and views are very likely to be different, as it's not really a one size fits all industry.</p> <p>My business is registered and run from my home, there would be no clients of mine ever visiting my home. So I would assume I have no need to display the operators license inside my house somewhere!"</p> <p>Point 2 – Section 7.2 Booking Entries A) The name of the person making the record</p> <p>Comments "I see no reason why this is relevant to be honest, even for the larger high booking private hire operators in Cardiff, if the booking is taken by the operator under their license, I see no need to record exactly who made the record, as the operator would liable for any missed or incorrectly entered data."</p> <p>Point 3 – Section 7.2 Booking Entries F) The time the journey was completed</p> <p>Comments "Again, I see no relevance in what the journey completion time needs to be on the booking record for."</p>	<p>Point 2 – Section 7.2 It is considered relevant by the Licensing Authority in the interests of public safety.</p> <p>Point 3 – Section 7.2 It is considered relevant by the Licensing Authority in the interests of public safety.</p>	<p>Point 2 – Section 7.2 N/A</p> <p>Point 3 – Section 7.2 N/A</p>
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		<p>Point 4 – Section 7.2 Booking Entries G) The total cost of the journey</p> <p>Comments “Again, I see no relevance in why this needs to be entered, as private hire operators are able to charge what they would like. For my type of business in particular, I chauffeur high profile clients and I wouldn't feel safe knowing that the cost of their bookings could potentially be passed over to the council or the police and face the risk of being breached once shared. I also don't like that there would be a risk of this being breached or potentially shared with those in the same line of work as me, to be able to know my pricing structure. So, I see no relevance and only additional risk if this was to be recorded.”</p>	<p>Point 4 – Section 7.2 Data protection regulations would address any concerns of data being shared. It is considered that the cost of the journey is a reasonable ask of operators for full transparency and to aid any investigations.</p>	<p>Point 4 – Section 7.2 N/A</p>
		<p>Point 5 – Section 7.2 Booking Entries J) The name of the person that dispatched the vehicle</p> <p>Comments “As per point A, I see no relevance in pin pointing who in the organisation dispatched the vehicle. In my scenario it's very simple as it would always be me, however for larger operators, again it should be that the vehicle was dispatched by that operator, I see no reason to delve any further.”</p>	<p>Point 5 – Section 7.2 The Licensing Authority considers this relevant and necessary -this could assist with any relevant investigations.</p>	<p>Point 5 – Section 7.2 N/A</p>

		<p>Point 6 – Section 7.2 Booking Entries K) If applicable, the name of the other operator from whom a booking was received and/or to whom the booking was subcontracted.</p> <p>Comments “If I allocate a booking to another licensed operator, of which I have confirmed holds a valid operators license, I see no need to record that booking anywhere on my records, as it would then be logged under their records in accordance with their licensing authority requirements. The same goes for if another licensed operator gives me a booking to complete, I would just record the booking as per the current booking record requirements of Cardiff.”</p>	<p>Point 6 – Section 7.2 For full transparency and in the interests of public safety it is considered necessary that such records are kept.</p>	<p>Point 6 – Section 7.2 N/A</p>
09.2020	Martin Moor on behalf of Drive	<p>Point 1 – Section 6 Business Premises 6.2 The Operator must not conduct his business, nor employ or utilise any person to conduct his business in any premises, the use of which have not been approved by the Licensing Authority.</p> <p>Comments “This seems to have been written with a traditional private hire company in mind with walk in offices open to the public. The reality is the few companies operate in this way. Many, particularly in these times, use home based workers for answering and dispatching calls. Section 6.2 would seem to suggest that each and every home worker's base would need to be approved by the Licencing Authority. This may not be the intention of</p>	<p>Point 1 – Section 6 Agree. Condition seems disproportionate in the current climate. Remove 6.2</p>	<p>Point 1 – Section 6 Remove paragraph 6.2</p>

		<p>the clause - but it is unclear and could greatly effect the way in which many conduct operations.</p> <p>We would therefore seek clarification regarding the intention behind this stipulation and to know what the Licencing Authority approval consists of. Additionally, we would like to know if this would apply equally to large multi-national companies who have a significant portion of their business operations located outside the Cardiff area - would these need similar local authority approval?"</p> <p>Point 2 – Section 7.2 Booking Records</p> <p>Comments "Regarding Section 7 - booking records, we would like to ask how a company that uses a booking app is able to fulfil 7.2 (a) and (j) as there isn't really person as such involved in making the record / dispatching the booking - this would seem to suggest that all app bookings would be contravening the operator's conditions."</p> <p>Point 3 – Section 9 Working Hours</p> <p>Comments "Regarding Section 9 - working hours. We would seek clarification on whether this is time logged onto a dispatch system or actual driving hours as a lot of time is spent waiting for work, but many systems do not</p>	<p>Point 2 – Section 7.2 Agree with comment, wording to be amended to consider computerised systems.</p> <p>Point 3 – Section 9 The Licensing Authority would consider this means time spent driving. The onus would be on the operator to put a system or procedure in place to take steps to ensure that drivers do not work excessively long hours. This is important to safeguard drivers, passengers and members of the general public.</p>	<p>Point 2 – Section 7.2 Wording amended to: "a) The name of the person making the record (if not dispatched by computerised system)"</p> <p>"j) The name of the person that dispatched the vehicle (if not dispatched by computerised system)"</p> <p>Point 3 – Section 9 N/A</p>
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		<p>differentiate between actual driving time and time spent waiting for work. Also mention is made of 'a day' - would a 24 hour period be a better reflection the reality of taxi / private hire driving."</p> <p>Point 4 – Consultation</p> <p>Comments</p> <p>"We would also like to mention that as many of these proposed conditions effect the trade in general, the invitation to comment should have been more widely circulated rather than just to operators."</p>	<p>"A day" is considered the preferred term which is in line with EU rules etc.</p> <p>Point 4 – Consultation</p> <p>As well as current operators the Cardiff Hackney Carriage Alliance was also consulted with.</p>	<p>Point 4 – Consultation</p> <p>N/A</p>
<div>Page 34</div> 24.09.2020	Desmond Broster on behalf of Veezu (Dragon Taxis)	<p>Point 1 – Section 1.1</p> <p>General</p> <p>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.</p> <p>Comments</p>	<p>Point 1 – Section 1.1</p> <p>Comments noted. It is felt that this is a reasonable condition to promote public safety, each operator should take sufficient checks to ensure they are satisfied that suitable drivers are used – failure to do this could mean putting the public at risk. The Licensing Authority will of course do its own check to ensure that they only licence 'fit and proper' persons but the operator must also put measures in place.</p> <p>The Licensing Authority does not feel that it is necessary to restrict drivers using multi-operators through the proposed conditions. We have separate enforcement powers which enable us to deal appropriately with drivers for example; if a driver committed or was under investigation for a serious offence we can take action by immediately revoking a driver's licence.</p>	<p>Point 1 – Section 1</p> <p>N/A</p>

		<p>The significant difficulty here is that drivers can multi-operate and that is defeating the purpose of the condition and so this specific onus on the operator is unfair. That unfairness becomes worse when you consider that the Council does not have an information sharing system to enable sharing driver assessments before entering the Operators business and it is unreasonable to expect rival companies to share their bad experiences of a driver with you.</p> <p>The responsibility rests with the licensing authority to make assessments if a licensed driver is 'Fit and proper' under its statutory obligations. Dragon does not wish under any circumstances to engage with a driver partner who can damage our reputation or cause harm or distress to passengers or communities – but it cannot be entirely successful in that without receiving adequate historical information or pending investigations from the licensing authority.</p> <p>The issues around drivers multi-operating whilst carrying the livery of an operator they are not 'logged on with' is creating dangers and frustrations with passengers, making the investigation of complaints harder for you and us. There needs to be a much stronger regulatory approach to this.</p> <p>Point 2 – Section 1.2</p> <p>General Where an operator dismisses a driver they must report the dismissal and reasons for it to the Licensing Authority within 48 hours of the dismissal taking effect.</p> <p>Comments</p>	<p>Point 2 – Section 1.2</p> <p>See above comment regarding multi-operating.</p> <p>Agree, that the term 'disengages' can be used.</p>	<p>Point 2 – Section 1.2</p> <p>The term 'disengages' to be added.</p>
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		<p>The terminology used here is unacceptable and this proposed condition needs to be significantly re-drafted. We do not employ drivers – they are self-employed and so they cannot be ‘dismissed’. The preferred term is ‘disengages’. However, even with that terminology the reasons for disengaging are varied and on many occasions have nothing to do with any regulatory concerns.</p> <p>If you were to propose the following, we would support that if it was in conjunction with not approving multi-operating on the grounds of public safety – prevention of plying for hire - improved complaints management capability by the Council and Operators.</p> <p>SPECIFIED VEHICLES</p> <p>No licensed Operator shall operate any Private Hire vehicle other than those which have been listed by an Authorised Officer of the Licensing Authority on the Operator Vehicle Schedule (Form OPVS). Any alteration to the form OPVS shall only be made by an Authorised Officer of the Licensing Authority</p> <p>When a licensed Operator ceases to operate any vehicle specified on the OPVS, the Operator shall forthwith, and in any event not later than 72 hours, notify the Licensing Authority for amendment by an Authorised Officer.</p> <p>SPECIFIED DRIVERS</p> <p>The Operator shall notify the Licensing Authority of each and every Private Hire driver sub-contracted by the operator in his Operator Driver Schedule (Form OPDS). Where an Operator ceases to sub-contract to any licensed private hire driver, the Operator shall</p>		
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		<p>forthwith, and in any event within 72 hours, notify the Licensing Authority in writing and present the form OPDS to the Licensing Authority for amendment by an Authorised Officer. Each Operator will retain at the address from which the business is conducted, the original Private Hire driver licence issued by the Council of every licensed Private Hire that Operator sub-contracts to</p> <p>The Private Hire driver licences shall be available at all times for inspection by any Authorised Officer of the Licensing Authority or Police Constable who may take the licence(s) away from the premises if so required.</p> <p>Every Private Hire driver licence retained by the Operator must display the trade name and Operator licence number relating to his licence.</p> <p>The Private Hire driver licence must be returned to the driver when the driver elects to move to another operator.</p> <p>Point 3 – Section 1.6</p> <p>General 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’.</p> <p>Comments</p>	<p>Point 3 – Section 1.6</p> <p>Comments noted. In relation to the example given the Licensing Authority would consider that all necessary steps were taken to satisfy this condition. However, on reflection as this is covered by separate legislation which licensing are authorised to enforce condition to be removed and added to notes to remind operators of their obligations under the Equality Act.</p>	<p>Point 3 – Section 1.6</p> <p>Condition removed and added to notes.</p>
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		<p>There need to be greater clarity here around what they mean by 'fail'. We would argue that we will always accept bookings and dispatch drivers. Where a driver fails to meet his obligations and compliance with the Equality Act 2010 we will seek to immediately transfer that booking to another driver and disengage with the first driver until the matter has been investigated by the authority. That is not a failing on the part of the Operator. Perhaps the better term would be 'must not negligently fail'.</p> <p>Point 4 – Section 1.7</p> <p>The Operators must comply with all reasonable requests made by authorised officers of the Licensing Authority.</p> <p>Comments It would be a good opportunity now for the Council to recognise that since the 1976 Act – 'Section 73 – Obstruction of officers', that there have been significant changes in legislation to protect personal information, particularly GDPR and that the necessity to be compliant with the statutory legislation is critical to a business and consumer in many senses. That the Council, moving forward, will formally request the information in writing in an approved Council format. Colleagues at Dragon work well with your officers but it is important that inexperienced Dragon colleagues recognise that information will only be released in a structured, consistent and formal approach. It also makes the evidence more secure for the Council before the Courts.</p>	<p>Point 4 – Section 1.7</p> <p>Comments noted but this does not warrant a change to the condition. This comment can be put forward for consideration for internal processes within the Licensing Authority.</p>	<p>Point 4 – Section 1.7</p> <p>N/A</p>
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		<p>Point 5 – Section 2.5</p> <p>Complaints system 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.</p> <p>Comments We agree with the principle but the technical solution for an App is not currently available and I am not sure you would want to be in receipt of some the minor issues dealt with by operators – you could be overwhelmed. Perhaps the condition would be more effective if it was specifically linked to the more serious issues at 2.7</p> <p>Point 6 – Section 2.7</p> <p>Complaints system The Operator must notify the Licensing Authority within 48 hours if the operator receives a complaint about a driver operated by them if the complaint relates to any of the following:</p> <ul style="list-style-type: none"> • allegations of sexual misconduct (including the use of sexualised language) • racist behaviour • violence (including verbal aggression) • dishonesty including theft • Equality breaches • any other serious misconduct (including motoring related). 	<p>Point 5 – Section 2.5</p> <p>Comments noted but it is felt that this is a reasonable condition to ensure good customer service and to promote public safety.</p> <p>Point 6 – Section 2.7</p> <p>Comments noted.</p> <p>Bullet 6 – in terms of motoring related this could include dangerous driving and drink driving.</p>	<p>Point 5 – Section 2.5</p> <p>N/A</p> <p>Point 6 – Section 2.7</p> <p>Bullet 6 amended to include motoring related examples.</p>
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		<p>Comments</p> <p>Agree with all of this. However, there needs to be an understanding that we can only report what know what we know about during the course of our business operations and this becomes increasingly difficult – even out of control when drivers work across multiple operators, even showing the wrong door signage as they swop about in an almost plying for hire created legal environment.</p> <p>Bullet 6 is too vague in respect of motoring related – it could be argued that any incident that conflicts with the Highway Code can have serious implications – so there needs to be a threshold.</p> <p>Point 7 – Section 3.1</p> <p>Driver and Vehicle Records</p> <p>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:</p> <ul style="list-style-type: none"> f) name and home address of every private hire vehicle driver operated by him; g) details including licence number and date of expiry of the private hire driver's licence of every private hire vehicle driver operated by him; h) name and home address of the proprietor of every private hire vehicle operated by him; i) details including the private hire licence plate number and expiry date and vehicle registration number of every private hire vehicle operated by him 	<p>Point 7 – Section 3.1</p> <p>Comments noted however the recording of such details will promote public safety and assist the Local Authority with investigations.</p>	<p>Point 7 – Section 3.1</p> <p>N/A</p>
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		<p>Comments</p> <p>Please see the earlier comments at 1.2 which we feel are a more appropriate regulatory position. How do we know if someone has been suspended if they don't produce the original licence? What is the benefit of this if you are not going to record that detail centrally on your data base?</p> <p>Our view is that if it is necessary, (and it is!) that the regulatory public safety control is meaningful. It doesn't restrict a driver – he can leave without notice and go to another operator who can collect his original licence from the previous operator.</p> <p>Point 8 – Section 4.2</p> <p>DBS Check</p> <p>All applicants/licence holders must sign up to the DBS Update Service and maintain their subscription for the duration of their licence. The licence holder must give permission for the Licensing Authority to undertake checks of their DBS status.</p> <p>Comments</p> <p>The up-date service does not apply to basic DBS checks – which is the position of Operators recognised by the DBS.</p> <p>Point 9 – Section 8.1</p> <p>Notification of Convictions</p> <p>Within 48 hours of any 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 (including company director or individual</p>	<p>Point 8 – Section 4.2</p> <p>Agree. Update service does not allow for Basic Disclosures, as a result this condition to be amended to require operators (at their own expense) to submit a basic disclosure to the Licensing Authority every year in line with best practice standards issued by DfT.</p> <p>Point 9 – Section 8.1</p> <p>The Licensing Authority believes that it is necessary for the promotion of public safety to be notified of convictions of operator licence holder which will help determine if they are of good character and</p>	<p>Point 8 – Section 4.2</p> <p>Condition to be updated.</p> <p>Point 9 – Section 8.1</p> <p>N/A</p>
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		<p>named on application form) must notify the Licensing Authority with full details of the matter(s).</p> <p>What must be reported:-</p> <ul style="list-style-type: none"> • Any conviction (criminal or motoring matter); • Any caution (issued by the Police or any other agency); • Issue of any Magistrate's Court summonses against you; • Issue of any fixed penalty notice for any matter; • Any harassment or other form of warning or order within the criminal law including anti-social behaviour orders or similar; • Arrest for any offence (whether or not charged). • Any acquittal following a criminal case heard by a court. • Any refused of any type of licence by any other regulatory authority or any such licence is suspended, revoked or not renewed. <p>Comments</p> <p>'Any motoring matter' - 'Issue of any FPN notice for any matter' Is this necessary across a corporate entity when the 'fit and proper' person test is applied to someone who does not drive under a LA PHD or HCD licence – Gets 3 points for a low infringement speeding, or a parking ticket? This isn't proportionate to the objective you need to achieve and should be adjusted. There seems to be an omission in respect of custodial sentences imposed at civil proceedings - for example insurance fraud etc. Suggest 72 hours to allow for Bank Holidays etc. which is a recognised period</p>	<p>'fit and proper' to be able to manage an operator business.</p> <p>The trade work bank holidays, in view of this 48 hours seems a reasonable period.</p>	
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		<p>Point 10 – Section 7.2</p> <p>Booking Records</p> <p>At the time of accepting each booking an entry shall be made in the record book or computerised booking and dispatch system that shall include:</p> <ol style="list-style-type: none"> The name of the person making the record The time and date on which the booking is made and, The name of the person for whom the booking is made The agreed time and place of collection, or, if more than one, the agreed time and place of the first place of collection 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. The time the journey was completed The total cost of the completed journey The driver’s hackney carriage/private hire driver’s licence number The registration number of the vehicle allocated to the booking The name of the person that dispatched the vehicle If applicable, the name of the other operator from whom a booking was received and / or to whom the booking was subcontracted. <p>Comments</p> <p>A & B) A number of issues here: – The basis for many similar conditions across the country goes back to 1976, when the Act was brought into effect to counter unlicensed drivers, vehicles and operators, but also tying down that a journey was pre-booked to prevent plying for hire – demonstrating there was a lawfully pre-booking.</p>	<p>Point 10 – Section 7.2</p> <p>Agree that wording should be updated to reflect updating technology.</p> <p>Recording the destination is already a requirement of the current operator conditions. On reflection it is evident that requesting the destination at the time of the booking does not necessarily reflect how the market works.</p> <p>The Licensing Authority requires that a destination is recorded but accepts that this doesn’t have to be at the time of accepting the booking. GPS co-ordinates would also be acceptable.</p> <p>Recording the name of the person booking could also assist the Local Authority with any investigation.</p>	<p>Point 10 – Section 7.2</p> <p>Wording to a) & j) changed to:</p> <p>“a) The name of the person making the record (if not made by computerised system)”</p> <p>“j) The name of the person that dispatched the vehicle (if not dispatched by computerised system)”</p> <p>Wording amended:</p> <p>“For all accepted bookings an entry shall be made in the record book or computerised booking and dispatch system that shall include:”</p>
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		<p>With today's technology much of this wording has been overtaken by technology and instead of names on every occasion there are electronic unique reference numbers which can go back to the person booking the journey. In effect this satisfies the purpose of the condition – it electronically records a time and reference number which, unlike paper records, cannot be falsified. The condition should accommodate electronic booking, for example Apps, – it is where the technology has reached and can be trusted to satisfy officers that a journey was pre-booked.</p> <p>E) We often encounter 'by direction' bookings where passengers have an idea of a district but don't know the address and that can only be resolved at the conclusion of the journey and identified by GPS positioning. Under such circumstances where there is such technology in use by the operator the condition should take account of that.</p> <p>On another point Operating staff would also say, 'What's in a name?' – we know that we have taken bookings for people who have been banned by us previously, but who simply use a friend's mobile and give a false name. So in essence, it is not the name which is important with advanced technology, it is the ability to instantly record and track a booking which is far more than was ever envisaged 10/12 years ago.</p> <p>Point 11 – Section 8.1 Personal Data The operator must take steps to ensure that all staff involved in the handling of personal data, such as</p>	<p>Point 11 – Section 8.1</p> <p>Agree, it would be for operators to consider someone's convictions. Wording therefore to be amended.</p>	<p>Point 11 – Section 8.1</p> <p>Wording amended: "The operator must take steps to ensure that all staff involved in the handling of personal data, such as booking staff,</p>
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	<p>booking staff, managers etc. are of good character and free from convictions relating to theft or dishonesty.</p> <p>Comments</p> <p>This is very vague and does not take sufficient account of the real purpose of the Statutory Guidance where the greatest concern is protect vulnerable children and adults – grooming – safeguarding etc. There are many people in gainful employment who have reformed but still have convictions. Similarly the condition would be better if it didn't just close the door on people who have offended but instead recognised that some low level offenders can be safely accommodated within an employment environment with the use of risk assessments and purposeful management controls. The very best efforts of Central Government and society are put to one side with this disproportionate proposal and we would oppose it in a principled way https://www.gov.uk/government/publications/unlock-opportunity-employer-information-pack-and-case-studies/employing-prisoners-and-ex-offenders</p> <p>Perhaps the starting point would be to replicate the Statutory Guidance and require all Operators to have in place an employment policy on ex-offenders whose convictions are still live under the Rehabilitation of Offenders Act.</p> <p>You may consider that all Operators are registered with the Information Commissioners office and have an accredited ISO data security policy</p> <p>Point 12 – Section 9.1 Working Hours</p> <p>The operator must take steps to ensure that drivers do not work excessively long hours. Drivers should not be</p>		<p>managers etc. are of good character and that they have considered any convictions that would show on a Basic DBS certificate in line with their policy on employing ex-offenders. The operator should also make their policy on employing ex-offenders available to the Licensing Authority”</p> <p>Point 12 – Section 9.1</p> <p>N/A</p>
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Point 12 – Section 9.1

Comments noted. See point 1 on drivers using multiple operators.

		<p>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.</p> <p>Comments We agree with the principle of this but point out that enabling drivers to work across multiple operators completely undermines the purpose of the condition and makes 100% unviable for an operator to meet.</p> <p>Point 13 – Section 10.3</p> <p>Insurance 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.</p> <p>Any premises that provide access to members of the public must be covered by Public Liability insurance.</p> <p>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.</p>	<p>Point 13 – Section 10.3</p> <p>Comments noted. We would expect that all reasonable steps are taken to ensure that vehicles are covered by a policy.</p>	<p>Point 13 – Section 10.3</p> <p>N/A</p>
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		<p>Comments</p> <p>There needs to be an understanding that some drivers obtain a policy for hire and reward and then change it to SDP. The driver retains the original documentation and we are no wiser because he will always produce the original document. We have no entitlement to access MIB insurance records so we need clarity around how we can achieve this “<i>at all times</i>” to reduce our liability in your eyes.</p>		
24.09.2020	Shammi Raichura on behalf of Uber	<p>Point 1 – Section 1.4</p> <p>General</p> <p>1.4 The operator must inform the Licensing Authority if they 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.</p> <p>Comments</p> <p>“We support Cardiff Council’s proposal of a condition which requires operators to ensure the council has clear lines of communication with those responsible for the running of an operator’s business at all times. We suggest further detail on this requirement in relation to how it may apply in cases where an operator licence has been granted to a corporate entity (as is the case for Uber). As you may be aware, Uber Britannia Limited has a number of directors, however the responsibility for the day to day running of the business in a particular locality sits with respective nominated employees of the company. In the case of our Cardiff</p>	<p>Point 1 – Section 1.4</p> <p>Agree that the Licensing Authority is looking for clear lines of communication with those responsible for the running of the operator’s business at all times. Wording therefore amended to include ‘responsible person’.</p>	<p>Point 1 – Section 1.4</p> <p>Wording amended:</p> <p>“The operator must inform the Licensing Authority if they and/or the person responsible for running of 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.”</p>

		<p>Council business, it would be the designated City Head (myself in this case).</p> <p>In light of this, we would assume that the requirement to report absences from the day to day running of the business for a period of 2 consecutive months would only apply in cases where Uber's respective City Head is absent, and not in the case of any of the company's executive or non-executive directors being absent for this period of time. It would be helpful for the proposed condition to provide clarification as to how the requirement applies in cases where an appointed representative is acting on behalf of a named operator or corporate entity."</p> <p>Point 2 – Section 2.1</p> <p>Complaints system</p> <p>2.1 The operator must maintain a register of complaints (digital or hard copy), which must include the following information:</p> <ul style="list-style-type: none"> Complainant's name and address <p>Comments</p> <p>"We welcome a requirement for operators to maintain detailed records of complaints. The systems we have in place keep records for each complaint in line with what would be required under the proposed condition, apart from in the case of the complainant's address (if this is referring to a home address, we do retain an email address for all passengers who make a booking).</p> <p>Passengers making a booking on the Uber app are required to share their full name, email address, phone</p>	<p>Point 2 – Section 2.1</p> <p>The Licensing Authority considers that where available an address should be recorded however in circumstances where it is not i.e. complainant does not wish to provide one an email address would be a suitable substitute.</p>	<p>Point 2 – Section 2.1</p> <p>Slight amendment to text to include email address would be suitable substitute in circumstances where an address is not provided by complainant.</p>
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		<p>number and card details (stored securely) for payment. We believe these details are adequate for the user to book a private hire trip, and as a result, their home address is not recorded when creating an Uber account (it is possible that the user may never request a trip from/to their home address, so we do not believe this datapoint is relevant to capture).</p> <p>We have a number of means through which we can contact passengers and passengers can contact us, these include through response via 'In-App-Support', a phone call, or email. As a result of this we do not believe that the user's home address is required in order for us to record and handle their complaint successfully. You will appreciate that in line with GDPR obligations, operators seek to record and retain only that personal data which is required and proportionate.</p> <p>We note that there may also be cases in which passengers may not want to share their home address with Uber. In such cases, we would not want a requirement to do so to lead the passenger to not want to share a complaint with us.</p> <p>Our recommendation is that operators are required to record either the home address of passengers who wish to complain or their email address."</p> <p>Point 3 – Section 2.7 2.7 The Operator must notify the Licensing Authority within 48 hours if the operator receives a complaint about a driver operated by them if the complaint relates to any of the following:</p>	<p>Point 3 – Section 2.7 Agree.</p> <p>It is expected that a complaint is reported to the Licensing Authority once it has been identified that it falls within one of the listed categories.</p>	<p>Point 3 – Section 2.7 Amended to wording for clarity:</p> <p>The Operator must notify the Licensing Authority within 48 hours if the operator receives</p>
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		<ul style="list-style-type: none"> • allegations of sexual misconduct (including the use of sexualised language) • racist behaviour • violence (including verbal aggression) • dishonesty including theft • Equality breaches • any other serious misconduct (including motoring related). <p>Comments</p> <p>“We support Cardiff Council’s proposal to implement a condition which requires operators to report complaints of a specified category to the licensing office.</p> <p>We would also like to note that Uber regularly provides direct support to proactive investigations of serious crime and has helped to support a number of convictions. Included in this is our support for Police investigations into sexual offences, gangs and homicides. All requests fulfilled under this are carefully assessed to ensure there is a legal basis for the request, that the correct legal process has been followed.</p> <p>In relation to proposed condition 2.7, we would appreciate further guidance or clarity on how the reporting timeline is to be adhered to in the case of an unclear or incomplete complaint for a rider. In these instances, an operator often requires time to substantiate whether a complaint does in fact fall under one of the specified complaint types for reporting, generally by asking the complainant to provide more information or clarify their issue.</p>		<p>a complaint about a driver operated by them <i>when it has been identified that</i> the complaint relates to any of the following:</p>
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		<p>In the case of a complaint which requires multiple communications with the passenger to establish the category, our proposal would be to treat the complaint as reportable from the moment we have sufficient detail to be able to ascertain that it fits within the categories covered by proposed condition 2.7. We will of course err on the side of caution when categorising complaints and determining which to report. In cases where the category of complaint is immediately apparent and requires no action to clarify, we will of course undertake the reporting process as soon as possible.</p> <p>Factoring in this nuance to the requirement will help solve for the wide variety of potential complaints (and associated timeframes to adequately investigate these in order to categorise and report). This will allow operators time to substantiate whether a complaint does in fact fall under a specified complaint type for reporting. This should minimise unnecessary overreporting of complaints, and thereby avoid Cardiff Council expending any time and resources on such overreported complaints.</p> <p>As a result of this, we suggest an adjustment of this proposed condition which factors this in; a version of the wording may be:</p> <p>The Operator must notify the Licensing Authority within 48 hours if the operator receives a complaint about a driver operated by them <i>when it has been identified that</i> the complaint relates to any of the following:"</p>		
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		<p>Point 4 – Section 3.1 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</p> <p>Comments "We welcome the proposed condition to require operators to maintain and keep up-to-date records of drivers and vehicles being operated by them."</p> <p>Point 5 – Section 4 DBS Check 4.1 All applicants for a grant or renewal of a Private Hire Operator's licence must submit a basic disclosure (dated within one month of the application) which can be obtained from Disclosure & Barring Service 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 director of the company/organisation must provide a basic disclosure. The cost of these checks will be covered by the applicant/licence holder.</p>	<p>Point 4 – Section 3.1 Comments noted.</p> <p>Point 5 – Section 4 Agree. The DBS Update Service does not allow for Basic disclosures and as such this condition is to be amended to require that a basic disclosure must be submitted to the Local Authority (at a cost to the operator) every year – this is in accordance with DfT Best Practice Standards.</p>	<p>Point 4 – Section 3.1 N/A</p> <p>Point 5 – Section 4 Condition amended to remove requirement for update service and require that an operator submits a basic disclosure to the Local Authority every year.</p>
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4.2 All applicants/licence holders must sign up to the DBS Update Service and maintain their subscription for the duration of their licence. The licence holder must give permission for the Licensing Authority to undertake checks of their DBS status.

Comments

“We support the requirement for, and maintenance of, DBS checks conducted for private hire operator licence holders across the duration of their licence. As mentioned in our earlier email,

Condition 4.1 states: *“All applicants for a grant or renewal of a Private Hire Operators licence must submit a basic disclosure”*, however, Condition 4.2 also states *“All applicants/licence holders must sign up to the DBS Update Service”*.

After reviewing the DBS Update Service website, it states that in order to sign up to the DBS Update Service, the certificate needs to be either a Standard or Enhanced certificate (a Basic DBS certificate is not adequate).

In order to fulfil Condition 4.2, we seek clarification as to whether Cardiff Council are able to endorse or sponsor our company directors as an umbrella body. This will enable Uber to obtain Enhanced certificates for company directors, with a view to subscribing them to the Update Service.

Additionally, by subscribing to the Update Service (which allows Cardiff Council to check for any disclosure made since the Enhanced Certificate was issued) we believe that this will be more effective than requiring directors to produce a Basic Certificate (which only covers a moment in time, rather than being current as at the Update Service check). Therefore, in complying with condition 4.2, we believe this will make condition 4.1 redundant.”

		<p>Point 6 – Section 7 Booking Records 7.2 <i>At the time of accepting each booking an entry shall be made in the record book or computerised booking and dispatch system that shall include:</i></p> <ul style="list-style-type: none"> <i>a) The name of the person making the record</i> <i>b) The time and date on which the booking is made and,</i> <i>c) The name of the person for whom the booking is made</i> <i>d) The agreed time and place of collection, or, if more than one, the agreed time and place of the first place of collection</i> <i>e) 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.</i> <i>f) The time the journey was completed</i> <i>g) The total cost of the completed journey</i> <i>h) The driver’s hackney carriage/private hire driver’s licence number</i> <i>i) The registration number of the vehicle allocated to the booking</i> <i>j) The name of the person that dispatched the vehicle</i> <i>k) If applicable, the name of the other operator from whom a booking was received and / or to whom the booking was subcontracted.</i> <p>Comments “We welcome the efforts of the proposals to take into account app-based operators by acknowledging the use of computerised booking and dispatch systems. For point of clarification we wish to outline how our system fits with the requirements outlined, specifically in relation to requirements a), c) and j).</p>	<p>Point 6 – Section 7 Agree with comment, wording to be amended to consider computerised systems.</p>	<p>Point 6 – Section 7 Wording amended to: “a) The name of the person making the record (if not made by computerised system)”</p> <p>“j) The name of the person that dispatched the vehicle (if not dispatched by computerised booking”</p>
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		<p>of the public by requiring operators to take steps to ensure drivers do not work excessively long hours.</p> <p>Since January 2018 the Uber system has been configured to ensure drivers on the Uber app cannot spend more than 10 hours' time 'on trip' before needing to take a full 6 hour break from the app. 'On trip' time is defined as the total time spent for each booking undertaken between confirming the trip to completing it (as outlined below).</p> <p>After spending up to 10 hours of time 'on trip', the app notifies partner-drivers that they need to take a 6 hour break and are prevented from going back online to receive trip requests for 6 hours. The timer is reset upon the driver taking an uninterrupted break of 6 hours away from the app. Additionally, any other time (outside of being prompted) that a partner-driver takes an uninterrupted break of 6 hours from the app, the time counter will also reset to zero allowing them to go back online. In regards to the proposed requirement for drivers to take a 30 minute break after driving for 5.5 hours, we plan to ensure this is the case by sending regular reminders of this via email to partner-drivers on the Uber app licensed by Cardiff Council.</p> <p>We welcome any feedback on these actions in response to the proposed requirement."</p>		
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		<p>Point 8 – Section 10.3 Insurance 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.</p> <p>Comments "Uber does not own any of the vehicles it operates. There are however instances where vehicles operated by us are done so under fleet insurance policies which have been provided by third party fleet owners. In these instances, we make the following provision for record keeping; A copy of the insurance certificate along with a supporting permission letter and/or hire agreement that authorises and gives permission to the driver to use the stated vehicle for private hire use on the Uber platform."</p> <p>Point 9 – Section 11 Ride Sharing/Car-pooling 11.1 At the time of booking, individual hirers must be made aware of and explicitly consent to bookings that are part of a ride sharing/carpooling journey. 11.2 As part of ride sharing/carpooling schemes, operators must offer the option to hirers to only share with other passengers of the same sex. If hirers select this option passengers of</p>	<p>Point 8 – Section 10.3 Comments noted.</p> <p>Point 9 – Section 11 Comments noted. It is believed that further research is needed in relation to Ride Sharing/Car-pooling and as such it is felt at this time the Policy should reflect that no ride sharing should take place. The Licensing Authority can look at introducing this at a later date or when a request is submitted and a separate report can be put before Committee.</p>	<p>Point 8 – Section 10.3 N/A</p> <p>Point 9 – Section 11 N/A</p>
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		<p>the opposite sex may not be added to the same booking.</p> <p>Comments</p> <p>“We welcome the intention of the proposed condition which aims to ensure safety of pooled passengers. As you will be aware, Uber does not currently operate a pool/shared option in Cardiff.</p> <p>So far, London has been the only market in the UK where a pooled service has been offered.</p> <p>This service is currently suspended as part of a raft of safety measures introduced in response to the COVID-19 pandemic. We may look to offer pooled services again at a future point in time once it is safe to do so (either in London or further afield) although currently we have no such plans to do so.</p> <p>In respect to condition 11.2, we note that Uber along with many other operators in the UK do not request or record the gender of passengers when taking bookings. You will appreciate that in line with our GDPR obligations, we seek to limit the processing of personal data to what is necessary and proportionate. At present, it would therefore be difficult to operationalise this for many operators. We would respectfully suggest that whether or not to offer such a specific service should rest with the individual operators, rather than be required from all. We agree that, if such a service is offered, an operator should only then add passengers of the same sex to the booking.”</p>		
08.10.2020	Yusef Jarma on behalf of Hackney Carriage Alliance	<p>Point 1 – Section 1.2</p> <p>General</p> <p>Where an operator dismisses a driver they must report the dismissal and reasons for it to the Licensing</p>	<p>Point 1 – Section 1.2</p> <p>The Licensing Authority is not suggesting that drivers are employed however in response to a</p>	<p>Point 1 – Section 1.2</p> <p>Wording amended to include ‘disengage’.</p>

		<p>Authority within 48 hours of the dismissal taking effect.</p> <p>Comments Are drivers always - or even usually dismissed for reasons of public protection? Can self-employed drivers actually be 'dismissed'? Do they enjoy the same legislative protections as employees? Are public protection issues not adequately covered in 2.7? Is 48 hours a reasonable timeframe? Does this requirement not create an unnecessary workload for licensing enforcement officers and an equally unnecessary burden on operators?</p> <p>Point 2 – Section 2.2 Complaints The operator must maintain a register of complaints (digital or hard copy), which must include the following information:</p> <ul style="list-style-type: none"> • Complainant's name and address • Details of the complaint • Time and date of the alleged incident • Time and date the complaint was received by the operator • How the complaint was received e.g. phone, email etc • Name of person that received the complaint. 	<p>number of consultation responses we agree to amend condition to include the word 'disengage'.</p> <p>Drivers are not always dismissed for public protection reasons but the Licensing Authority would need to review this on a case by case basis. Reporting when drivers are dismissed/disengaged would go some way towards ensuring that our records are kept up to date, assist with investigations and could highlight patterns of behaviour for drivers. We would therefore review and take further action if necessary.</p> <p>We believe 48 hours is a reasonable timeframe.</p> <p>It would be down to the Licensing Authority to manage its workload and it is felt that it is a reasonable requirement of operators to help promote public safety.</p> <p>Point 2 – Section 2.2 As a regulatory body we regularly receive complaints that may not be the fault of the driver. It is for the Licensing Authority to assess complaints to ensure consistency, if the requirement was related to severity of the complaint it would be open to operator's interpretation and would be difficult to enforce.</p> <p>The Licensing Authority believes that all the requirements are reasonable and necessary and will assist in any investigations.</p>	<p>Point 2 – Section 2.2 N/A</p>
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		<ul style="list-style-type: none"> • Name of the alleged perpetrator • If the complaint was referred to the Licensing Authority – time and date of when it was referred and who by. • Details of the action taken to resolve the complaint and by whom • Date the complaint was resolved <p>Comments</p> <p>Are all causes for complaint always the fault of and/or within the control of the driver?</p> <p>Are all the listed requirements in the proposed complaints procedure reasonably necessary?</p> <p>Does it not depend on the nature and seriousness of the complaint?</p> <p>Is it always true that there is no smoke without fire?</p> <p>Point 2 – Section 2.7</p> <p>Complaints</p> <p>The Operator must notify the Licensing Authority within 48 hours if the operator receives a complaint about a driver operated by them if the complaint relates to any of the following:</p> <ul style="list-style-type: none"> • allegations of sexual misconduct (including the use of sexualised language) • racist behaviour • violence (including verbal aggression) • dishonesty including theft • Equality breaches • any other serious misconduct (including motoring related). 	<p>Point 2 – Section 2.7</p> <p>A driver's good conduct should not only extend to their paying passengers.</p> <p>The Licensing Authority accepts that some complaints will be unfounded (as they can be when received directly by the authority). Furthermore, it is noted that not all complainants follow through with complaints.</p>	<p>Point 2 – Section 2.7</p> <p>N/A</p>
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		<p>Comments</p> <p>Should third-party motoring-related allegations or complaints (not from passengers) always be reported to the local authority where no collision took place? Does the local authority accept that some complaints may be unfounded or malicious and once a formal complaint has been lodged the complainant may find it difficult to withdraw it later, especially if they have been prompted by someone else to report it?</p> <p>Point 3 – Section 4.5</p> <p>DBS Check</p> <p>Driving offences will not normally be considered as part of the assessment for private hire operator licence holders. Information contained within an enhanced DBS check that would not be disclosed on a basic check will not be considered as part of the assessment for a private hire operator's licence.</p> <p>Comments</p> <p>If driving offences by operators who are not themselves licensed to to drive a private hire or Hackney Carriage vehicle are not normally considered, why ask for their disclosure in 5.1?</p> <p>How would minor, non-recordable driving offences be relevant to their fitness and propriety as an operator? Are licensed operators always to be named persons? (Our view is that the operator should be both a company and a named person with both of these recorded on the licence in order that a human being ultimately accepts responsibility).</p>	<p>Point 3 – Section 4.5</p> <p>Driving offences are representation of good conduct.</p> <p>A non-recordable offence is still an offence and should be a consideration when determining whether somebody is fit and proper. E.g. a conviction for driving without insurance is a non-recordable offence but the Licensing Authority could consider this relevant to the way an operator conducts their business.</p> <p>The Licensing Authority is proposing that all directors of a company must provide a basic disclosure. There is no mechanism within the Local Government Miscellaneous 1976 Act to have a named responsible person.</p>	<p>Point 3 – Section 4.5</p> <p>N/A</p>
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		<p>Point 4 – Section 7.1 Booking records Why a hard-backed book? We are guessing that that the requirement for numbered pages is to prevent records being subsequently altered for posterity. Would such a book have enough space to record all the required particulars for a number of vehicles?</p> <p>Point 5 – Section 7.2 Booking Records At the time of accepting each booking an entry shall be made in the record book or computerised booking and dispatch system that shall include:</p> <ul style="list-style-type: none"> a) The name of the person making the record 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) The agreed time and place of collection, or, if more than one, the agreed time and place of the first place of collection e) 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. f) The time the journey was completed g) The total cost of the completed journey 	<p>Point 4 – Section 7.1 Comments noted. The condition is in line with DfT best practice guide. Operators should ensure that they have a durable book large enough to contain records.</p> <p>Point 5 – Section 7.2 Operators are currently required to keep similar records. It is a financial decision for a business to make whether they wish to invest in computerised software.</p> <p>The keeping of such records are reasonable and necessary and would greatly assist the Licensing Authority with investigations. For example; if records were not required it would be nearly impossible to effectively investigate flimping (plying for hire without correct licence) offences as the Licensing Authority would not be able to disprove a Private Hire driver that says the customer had pre-booked if records aren't required. Furthermore, it is important that this is done immediately so that if an officer believes an offence is taking place they can deal with it without delay.</p> <p>Yes, necessary and proportionate (and in line with DfT best practice), see comment above.</p>	<p>Point 4 – Section 7.1 Re-word hard-backed to durable.</p> <p>Point 5 – Section 7.2 N/A</p>
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	<p>What about bookings made by Interactive Voice Response or those made on behalf of others (example: by a hotel receptionist for a guest)? In such instances, does, "As directed," stated in the booking particulars not suffice?</p> <p>Point 7 – Section 9.1 Working Hours 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.</p> <p>Comments Whilst we agree that it is in the interests of public safety (notably that of the driver, passengers and other road users) for drivers not to work excessively long hours, are the proposed limits and break requirements reasonably compatible with the working patterns of licensed drivers in comparison with those of PCV, PSV and HGV drivers? How do you intend to ensure that all drivers working in Cardiff, regardless where they may be licensed, abide by the same working/driving time limitations in order to maintain a level playing field? Does the maximum driving hours limit include the time drivers spend waiting for bookings? If it does not, how would all operators, whether they use computer recording and dispatch systems/algorithms or not, be reasonably able to</p>	<p>The Licensing Authority requires that a destination is recorded but accepts that this doesn't have to be at the time of accepting the booking. GPS co-ordinates would also be acceptable.</p> <p>Point 7 – Section 9.1 EU Driver's Hours Rules Driving Hours 9 hours daily driving limit, this can be increased to 10 hours twice a week Maximum of 56 hours weekly driving limit Maximum of 90 hours fortnightly driving limit</p> <p>In reference to ensuring that all drivers working in Cardiff abide by the same limitations, under the Local Government Miscellaneous Act 1976 we are only permitted to place conditions on Cardiff Licences.</p> <p>We would expect that the restriction applies to driving hours. Driving hours require a significant amount of concentration which is why it is proportionate to limit it. It would be expected that the operator takes steps to ensure drivers do not work excessively long hours – it would be down to the operator to determine what steps they need to implement in order to manage effectively.</p>	<p>Point 7 – Section 9.1 N/A</p>
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		<p>calculate with accuracy the number of driving hours of each and every driver separately from the total number of hours elapsed since the start of work?</p> <p>If it does not, is this not a completely empty formula from a public safety perspective given that the total number of hours worked could easily be at least double the number of driving hours?</p> <p>Does the time that a driver spends waiting for bookings count towards rest time, given that the driver must remain sufficiently alert to accept bookings when they are dispatched and may have as little as ten seconds to do so, certainly if dispatched via personal digital assistant?</p> <p>If the stated maximum does include the time waiting for bookings since the start of work, are the proposed limitations flexible enough to deal with peaks and troughs of demand?</p> <p>What if a driver or a number of drivers had been largely inactive for several hours and were then due for a required break just as demand suddenly increased?</p> <p>Point 8 – Section 12.1 (b)</p> <p>Standards of Service</p> <p>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:</p> <ul style="list-style-type: none"> b) Ensure the highest level of customer service and care. <p>Comments</p> <p>What key performance indicators would be used by the licensing authority to assess the level of customer</p>	<p>Point 8 – Section 12.1 (b)</p> <p>Comments noted however it is considered that this condition is clear in what it is requiring of operators.</p>	<p>Point 8 – Section 12.1 (b)</p> <p>N/A</p>
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		<p>service and care and how would an acceptable level be determined? Is "highest level of customer service and care" not a rather nebulous term?</p> <p>Point 9</p> <p>Contracts and purported contracts</p> <p>The following should also be inserted into the operators licence conditions: <i>A message either electronic, written or verbal informing the customer that the operator in question has accepted their booking request (therefore indicating a contract) shall be given prior to a driver being allocated the booking.</i></p> <p><i>Without prejudice to Section 11 of the Deregulation Act of 2015, when a booking is made by mobile telephone application in respect of a journey commencing within the boundaries of the geographical licensing area of Cardiff Council and the operator (named person(s) and/or company) is licensed both in Cardiff and elsewhere, the contract shall be deemed to have been agreed between the customer making the booking and the operator licensed in Cardiff.</i></p> <p>The reason for the above is primarily public safety - vulnerable passengers, especially those in outlying areas of the city who should not be left stranded when a driver cancels a journey. It also serves to act in accordance with Section 56 (1) and (2) of the Local Government (Miscellaneous Provisions) Act 1976.</p>	<p>Point 9</p> <p>Under the Local Government (Miscellaneous Provisions) Act 1976 council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary. Having taken both internal and external legal advice the Council cannot impose conditions which replicate statutory provisions contained in the Act. The imposition of such conditions cannot be said to be necessary as the operator will have a legal obligation to comply with the Act in any event and Licensing Officers are authorised to take appropriate enforcement action under this legislation.</p>	<p>Point 9</p> <p>N/A</p>
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