

**MONMOUTHSHIRE COUNTY COUNCIL
REPORT**

SUBJECT:	Review of Hackney Carriage and Private Hire Policy and Conditions
DIRECTORATE:	Social Care, Safeguarding and Health
MEETING:	Licensing and Regulatory Committee
Date to be considered:	14th September 2021
DIVISION/WARDS AFFECTED:	All Wards

1. PURPOSE:

- 1.1 To inform Members of the requirements of the Department for Transport (DfT) Statutory Taxi and Private Hire Standards and Welsh Government's Harmonisation Guidance on Taxi and Private Hire Vehicle Licensing in Wales. Both necessitate a review of Monmouthshire's Hackney Carriage and Private Hire Policy and Conditions 2020.

2. RECOMMENDATIONS:

- 2.1 That Members note the content of the report and agree to amend Monmouthshire's Taxi and Private Hire Policy and Conditions 2020, to change the medical and Disclosure and Barring Service checks attached as Appendices A and B. The amendment to this policy to be approved as follows:
- The changes to come into force on 1st October 2021.
 - The transition of such changes, referred to in Section 3.10 of this report below, be approved.

KEY ISSUES

- 3.1 At the Licensing and Regulatory Committee on 23rd February 2021 and 18th May 2021, Members were made aware of the Department for Transport (DfT) Taxi and Private Hire Vehicle Standards published in July 2020. The standards focus on protecting children and vulnerable adults. The DfT state that following a detailed consultation it is clear there is a consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector.
- 3.2 The DfT standards have effect in Wales even though responsibility for taxi and private hire vehicle policy has been devolved to the Welsh Assembly. However, should the Welsh Government introduce legislation to regulate on these matters, the DfT standards would cease to apply. Monmouthshire County Council and all other licensing authorities in the UK will be expected to meet the minimum requirements of the DfT Statutory & Best Practice for taxi and private hire licensing, or explain why they do not.
- 3.3 It was noted that, in March 2021, the Welsh Government published the Harmonisation of Taxi and Private Hire Vehicle Licensing in Wales. This document follows the Welsh Government's white paper 'Improving Public Transport' published in 2018. The aim of the recommendations contained in the document is to provide 'quick fixes' to improve the consistency of licensing standards and increase the public safety across Wales. The recommendations form the basis for further development by Welsh Government into national standards. This non-statutory guidance has been produced jointly between Welsh Government, the Welsh Local Government Association (WLGA) and

representatives of local authorities across Wales via the Directors of Public Protection Wales.

- 3.4 Due to the overlap between the Standards and the Guide, and as taxi regulation is devolved, the Secretary of State for Transport has confirmed he is content for Welsh Government to monitor compliance with the Department of Transport (DfT) Standards as part of their wider work with policy alignment recommendations.
- 3.5 Adopting the recommendations will lead to increased public safety, consistency of standards across Wales, harmonised enforcement, increased accessibility of vehicles and better standards of customer service.
- 3.6 In summary, the main changes for consideration are as follows:

Drivers

- Requirement for drivers to join the Disclosure & Barring Service (DBS) Update Service and have a DBS check every 6 months
- Overseas criminal record check for drivers
- Adopting the Welsh Government's Driver Code of Conduct
- Updating the Private Hire Driver Conditions in line with the Welsh Government's Recommendations

Vehicle

- Requirement for vehicle proprietors to have an annual DBS check
- Overseas criminal record check
- Adopting the Welsh Government's policy on CCTV and Video Point of Impact Systems (VIPS)/Dash Cams in taxis and private hire vehicles
- Impose the Welsh Government's recommendations for accessibility conditions on vehicle proprietors of taxis and private hire vehicles.

General

- To commit to reviewing Licensing Policies every 5 years in accordance with the DfT's Statutory Standards.
- 3.7 Some of the practices that are referred to in both documents have already been implemented into Monmouthshire County Council's procedures and policies, either in respect of our driver/operator policy or vehicle specification. Examples include the National Register for Revocations and Refusals (NR3) and the driver and operator suitability policy. However, it was noted at the Licensing and Regulatory Committee on 18th May 2021 that some of the proposed changes will require our existing policies to be subject to amendment.
 - 3.8 Some of the matters referred to in the harmonisation document will have implications for the taxi trade in the County. One of the significant changes that are proposed relate to the requirement for 6 monthly Disclosure and Barring (DBS) checks for drivers, primarily via the DBS Update Service. Another change relates to increased criminality checks for Private Hire Operators and their staff, along with vehicle proprietors. Our requirements for Group 2 Medicals will also require minor amendment to enable certification from the applicants own GP or other Doctors with access to medical records.
 - 3.9 It was agreed at the meeting on 18th May 2021 that Monmouthshire will start this review process by consulting on the changes proposed in Appendix A and B

attached to this report. The consultation took place with the licensed trade and relevant stakeholders, with the minor modifications to the Group 2 medical requirements and the DBS requirements for a 12 week period, which ended on 31st August 2021.

- 3.10 The consultation on DBS requirements will be done with the view that this Authority will be undertaking enhanced DBS every 6 months after the granting of new drivers licences. New drivers will be required to undertake an enhanced DBS check upon application. Those currently licensed by this Authority will be required to do a DBS check upon renewal of their licence and then every 6 months after renewal. This procedure will be the same for Private Hire Operators. However Operators will be required to conduct a basic DBS and they will not be required to have a check if they already do so as they are a driver. The trade will also be consulted on the requirements for Operators to carry out checks on their booking and dispatch staff and for vehicle proprietors to also carry out DBS checks. It was agreed by Members to consider responses to this consultation on 14th September 2021 before it is finalised to commence on 1st October 2021. It was noted that both the DfT and the Welsh Government Harmonised standard had already been circulated to drivers, vehicle proprietors and operators licensed by Monmouthshire.
- 3.11 It was further noted that the licence holder can sign up to the DBS update service within one month of their DBS check. The DBS update service is a 'rolling system' which allows the Council to check records without the need for the licence holder to make a new DBS application, (currently £50 for an enhanced check, £23 for a basic check). The cost to the licence holder for the update service is £13 per year, so this eventually would result in a small saving to the licence holder who would otherwise have to pay the new DBS application fee every 6 months. Signing up to the DBS update service benefits the Council as records can be checked instantly, and further benefits the licence holder as to the time taken to process a check. Currently there is a requirement for a 3 year DBS check.
- 3.12 This consultation was duly carried out as referred to in 3.9 and 3.10 above and no comments were received opposing such changes. As such this report recommends the changes come into force on 1st October 2021.

4 REASONS

- 4.1 The report informs Members to have regard to the Department of Transport's Statutory Taxi and Private Hire Vehicle Standards dated July 2020. The report highlights the requirement to amend Monmouthshire County Council's existing Taxi and Private Hire Policy and Conditions 2020. These changes form the basis for further development by Welsh Government into national standards.

5. RESOURCE IMPLICATIONS:

- 5.1 All Licensing fees and charges are recovered on a cost recovery basis.

6. WELLBEING AND FUTURE GENERATIONS IMPLICATIONS:

- 6.1 The 'Future Generations' template is attached as Appendix C.

7. CONSULTEES:

None

8. 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

Harmonisation of Taxi and Private Hire Vehicle Licensing in Wales

[Taxi and private hire vehicles: licensing guidance | GOV.WALES](#)

9. AUTHOR:

Linda O’Gorman Principal Licensing Officer

CONTACT DETAILS: Tel: 01633 644214
Email: lindaogorman@monmouthshire.gov.uk

APPENDIX A

Medical checks – Hackney Carriage and Private Hire Drivers

The licensing authority recognises that licensed drivers should have more stringent medical standards than those applicable to normal car drivers because they carry members of the public who have expectations of a safe journey; they are on the road for longer hours than most car drivers; and they may have to assist disabled passengers and handle luggage. Therefore, all applicants for a hackney carriage/private hire driver's licence are required to meet the DVLA Group 2 medical standards of fitness to drive. The medical must be carried out by the applicant's own general practitioner (GP) or another GP at the applicant's registered practice that has full access to their medical records.

In exceptional circumstances, and only with prior agreement from the Licensing authority, a medical assessment may be carried out by another registered GP practice as long as the applicant's full medical history has been viewed and assessed by that GP.

The licensing authority may direct any licence holder to supply satisfactory evidence in the form of a medical certificate, stating the licence holder meets the required Group 2 standards, should their medical fitness be called into question.

Any applicant for the grant or renewal of a licence who is unable to satisfy the licensing authority that they meet the required medical standard shall not have a licence granted to them, or the licence shall not be renewed, or shall be revoked.

The requirement for applicants/licensed drivers to complete a medical examination is as follows:

- Upon application, every 5 years between the ages of 45 and 65
- Every year when the driver is aged 65 years or over
- Or anytime as required by the licensing authority or the medical practitioner.

The medical form is valid for 4 months from the date the examining doctor, optician or optometrist signs it.

All licence holders are required to inform the licensing authority of any illness or condition that affects their ability to drive.

All costs associated with obtaining the relevant medical certificate are to be met by the applicant/licence holder.

Find the medical form: [Medical report for taxi or private hire vehicle drivers licence: application form](#)

APPENDIX B

1. DBS check – Hackney Carriage and Private Hire Driver

In order to satisfy the authority that they are a 'fit and proper' person, all applicants for the role of hackney carriage or private hire vehicle (PHV) driver will undergo an Enhanced Disclosure and Barring Service (DBS) check, which includes a check of the children and adult barred lists. For licensed drivers this check will be repeated every 6 months.

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.

Or

Drivers wishing to submit a DBS every six months rather than use the Update Service will be required to take personal responsibility to make appointment with the Licensing Authority 4 weeks before 6 months DBS is due, failure to make the appointment could result in Drivers Licence being suspended until such time a DBS is completed and returned to the Authority by the DBS.

Disclosure and Barring Service certificates will only be accepted if the disclosure is dated within one calendar month prior to the application. To assist in assessing the suitability of applicants and licence holders the licensing authority will have regard to the Institute of Licensing's '[Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades](#)' April 2018.

It should be noted that individuals that appear on either barred list will routinely have their application refused, unless there are exceptional circumstances in which the licensing authority considers that, on the balance of probabilities, the individual is 'fit and proper'.

Overseas criminal record check

All applicants for a hackney carriage or PHV driver's licence that have spent 6 or more continuous months outside the United Kingdom since their tenth birthday the Licensing authority will need to see evidence of a criminal record check from the country / countries visited covering the period that the applicant was overseas.

The applicant will be required to cover any financial costs of such checks.

For EU nationals (including UK citizens) suitable checks should be available. For those countries for which checks are not available, the Licensing authority will require a certificate of good conduct authenticated by the relevant embassy. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Information regarding certificates of good conduct or similar documents from a number of countries is available from: [GOV.UK Criminal records checks for overseas applicants](#).

In the event that an applicant is not able to obtain a certificate of good conduct, they should not progress with their application and should contact the Licensing authority for further information.

Overseas criminal history checks must have been obtained within the 6 month period preceding the application.

The Licensing authority will require any Certificate of Good Conduct that the applicant may have regardless of the age of the document.

Certificates of Good Conduct which are in a language other than English will be required to be translated into English at the applicant's expense by an independent translation service and the translation must be verified.

2. DBS Check – Hackney Carriage and Private Hire Vehicle Licence

All applicants for a hackney carriage and PHV vehicle licence will be required to submit a basic disclosure from the DBS in order to satisfy the authority that they are a 'fit and proper' person. This checks will be repeated for vehicle licence holders annually. The cost of these checks will be covered by the applicant/licence holder.

Applicants that already hold a hackney carriage or private hire driver licence with this authority are not required to provide the basic disclosure as part of their application for a hackney carriage/private hire vehicle licence.

To assist in assessing the suitability of applicants and licence holders the licensing authority will have regard to the Institute of Licensing's ['Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades](#), April 2018.

Driving offences will not normally be considered as part of the assessment for vehicle 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 vehicle licence.

Overseas Criminal Record Check

All applicants for a hackney carriage or PHV driver's licence that have spent 6 or more continuous months outside the United Kingdom since their tenth birthday the Licensing Authority will need to see evidence of a criminal record check from the country/countries visited covering the period that the applicant was overseas.

The applicant will be required to cover any financial costs of such checks.

For EU nationals (including UK citizens) suitable checks should be available. For those countries for which checks are not available, the Licensing Authority will require a certificate of good conduct authenticated by the relevant embassy. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Information regarding certificates of good conduct or similar documents from a number of countries is available from: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

In the event that an applicant is not able to obtain a certificate of good conduct, you should not progress with your application and should contact the Licensing Authority for further information.

3. Disclosure & Barring Service Checks – Private Hire Operators and staff

Operator

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.

Following the grant of a licence, licence holders must submit a new basic disclosure to the Licensing Authority annually.

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.

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.

Overseas Criminal Record Check

All applicants for a private hire vehicle operator's licence that have spent 6 or more continuous months outside the United Kingdom since their tenth birthday the Licensing Authority will need to see evidence of a criminal record check from the country / countries visited covering the period that the applicant was overseas.

The applicant will be required to cover any financial costs of such checks.

For EU nationals (including UK citizens) suitable checks should be available. For those countries for which checks are not available, the Licensing Authority will require a certificate of good conduct authenticated by the relevant embassy. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Information regarding certificates of good conduct or similar documents from a number of countries is available from: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

In the event that an applicant is not able to obtain a certificate of good conduct, you should not progress with your application and should contact the Licensing Authority for further information.

Overseas criminal history checks must have been obtained within the 6 month period preceding the application.

The Licensing Authority will require any Certificate of Good Conduct that the applicant may have regardless of the age of the document.

Certificates of Good Conduct which are in a language other than English will be required to be translated into English at the applicant's expense by an independent translation service and the translation must be verified.

Operator – Staff

1 a) The operator must view a basic DBS certificate (dated within one month of the check) of any staff that have access to booking records or dispatch vehicles.

b) The operator must maintain a register of all such staff which shall include a record of when each DBS check has been undertaken. This register must be available for inspection by an authorised officer of the Licensing Authority upon request. The register should include the following:

- i. the date that person's employment in that role commenced
- ii. the date the operator checked the DBS certificate
- iii. the name of the person that checked the DBS certificate

iv. The date the person ceased to perform that role.

c) The register must be retained for 6 months in line with the booking records.

d) Should an employee cease to be on the register and later re-enter the register a new basic DBS certificate (or use of the Update Service) should be viewed by the operator.

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