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Cyngor Sir
CEREDIGION
County Council

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ceredigion.gov.uk

Dear Sir / Madam

I write to inform you that a Meeting of the Licensing Committee – Taxis and other matters (non-statutory) will be **HELD REMOTELY VIA VIDEO-CONFERENCE AT 10.00AM (OR IMMEDIATELY FOLLOWING THE LICENSING COMMITTEE IF LATER)** on Thursday, 16 September 2021 at 10.00 am for the transaction of the following business:

1. **Apologies**
2. **Declaration of personal interest/prejudicial interest**
3. **To confirm the Minutes of the Meeting of the Licensing Committee held on 26 November 2020 and to consider any matters arising from those Minutes (Pages 3 - 4)**
4. **General Update (Pages 5 - 148)**
5. **Hackney Carriage and Private Hire Licensing – Review of Current Policy - Determining the Suitability of Applicants and Current Licence Holders. (Pages 149 - 212)**
6. **Report on the Proposal to Review Ceredigion County Council's Statement of Licensing Policy relating to Hackney Carriage and Private Hire Vehicles, Drivers and Operators. (Pages 213 - 286)**

Members are reminded to sign the Attendance Register

A Translation Services will be provided at this meeting and those present are welcome to speak in Welsh or English at the meeting.

Yours faithfully

A handwritten signature in black ink, appearing to read 'A. Edwards'.

Miss Lowri Edwards
Corporate Lead Officer: Democratic Services

To: Chairman and Members of Licensing Committee – Taxis and other matters (non-statutory)

The remaining Members of the Council for information only.

Minutes of a Meeting of the Licensing Committee (Non Statutory) held remotely by video-conference on Thursday, 26 November 2020

Present: Councillor Clive Davies (Chairman) Councillors Euros Davies, Gareth Davies, Marc Davies, Endaf Edwards, Lloyd Edwards, Hag Harris, Alun Lloyd-Jones, Dan Potter, Ivor Williams and Matthew Woolfall Jones,

Also in attendance: Councillor Gareth Lloyd (Cabinet Member)

Officers in Attendance: Ms Anne Louise – Davies, Trading Standards & Licensing Manager, Mr Gareth Rees, Senior Licensing Officer, Mrs Carwen Evans, Corporate Manager - Protection, Mrs Victoria Evans, Solicitor, Mrs Dana Jones, Democratic Services and Standards Officer

(11:20am –11:50am)

1 Apologies

Councillor Elaine Evans together with Mr Alun Williams apologised for their inability to attend the meeting.

2 Disclosure of Personal / Prejudicial Interests

Councillor Euros Davies declared a personal interest in Ceredigion Licensing Act Policy 2021-2026.

3 Minutes of Previous meetings of the Committee

It was **RESOLVED** to confirm as a true record the minutes of the meeting of the Committee held on the 19 October 2019 subject to noting that Councillor Gareth Davies was present at the meeting.

4 Matters Arising

None.

5 Licensing Act 2003 Matters:

General Update

- Dog Breeding Licence Magistrates Court - Refusal Appeal Hearing – November 2019
- Dog Breeding Licence Magistrates Court – Refusal Appeal Hearing
- Animal welfare (Wales) Licensing Course
- Licensing of Dog Breeding Establishments
- Local Government (Miscellaneous Provisions) Act 1976 – Taxi Hearings- Driver Hearings – Case Details
- Court Hearing Borth Wild Animal Kingdom

Following question from the floor, it was AGREED
(i) to note the report

- (ii) to thank all Officers for their work in keeping the standards within the dog breeding establishments; and
- (iii) that the increase in the number of hearings in relation to taxi matters be confirmed; as the number appeared to have increased since the last meeting of the committee

Confirmed at the meeting of the Committee held on the

Chairman:-_____

Date:_____

Cyngor Sir CEREDIGION County Council

Item No.

Report To:	Licensing Committee (Non Statutory Committee)
Date:	16 September 2021
Time:	10:00am
Location:	Virtual Meeting
Title:	General Update
Purpose of report:	For information

Wild Animal Kingdom Borth - Update

In April 2021, the Authority received an application for a Dangerous Wild Animal Licence from Mr and Mrs Tweedy, the owners of a new business known as the 'Animalarium' at Borth.

Mr and Mrs Tweedy's previous company, Borth Wild Animal Kingdom Ltd, had been wound up by the High Court in earlier in the year and consequently they no longer held a zoo licence or any other similar licence.

An inspection was conducted on the 12th May as part of their Dangerous Wild Animal Licence application. Following the inspection, the Authority decided not to grant a Dangerous Wild Animal Licence. Mr and Mrs Tweedy were then advised that they could no longer keep any dangerous wild animals and would have to remove the primates and lechwe (horned antelope) from the premises.

Since that decision, the owners and this Authority have worked together to bring matters to a satisfactory resolution. On 15 June 2021, the Council was notified that the primates had all been moved to a monkey sanctuary in Dorset without any issues and the owners were also in the process of finalising arrangements to move the lechwe.

The Authority continues to monitor the situation, and Mr and Mrs Tweedy are co-operating with Council officers and taking steps to carry out improvements to ensure animal welfare matters are being managed and addressed appropriately.

Horse Drawn Carriage – Policy (Consultation)

Ceredigion County Council is the Licensing Authority for Hackney carriages and private hire vehicles that operate within the County. The Authority has been approached by an individual who has expressed an interest in operating a horse drawn carriage along the promenade in Aberystwyth.

As the current Policy does not facilitate the licensing of horse drawn carriages, the Authority has amended its existing policy by creating a new Appendix G Horse drawn Carriage Conditions.

The draft Policy was sent out for consultation on 2 August 2021, with a closing response date of 31 August 2021. The proposed scheme comprises the following:

- Licensing of horse drawn hackney carriages in the Ceredigion authority
- Designated route being between New Promenade and Marine Terrace, Aberystwyth,
- Variation of the Taxi rank on New Promenade to permit only Horse drawn carriages between the hours of 6am – 6pm
- Amendments to the existing Licensing Policy to incorporate changes in legislation.

The result of the consultation will be formally reported at the next Licensing Committee meeting (18th November 2021).

Camping Licensing – Extension of Temporary use to 56 days

The current Coronavirus pandemic has resulted in an increase in visitors to Ceredigion who were keen to take advantage of staycations, and the Licensing Team has received an increase in enquiries relating to caravan site and camping licensing and extending the opening seasons of these type of premises.

The Welsh Government have introduced a temporary relaxation of planning controls for specified development through amendments to the Town and Country Planning (General Permitted Development) Order 1995 (GDPO). This enables the use of land including agricultural land for 56 days (currently 28 days) to provide temporary accommodation, including camping.

The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2021 (“the Amendment Order”) came into force on 30 April 2021. The provisions contained within the Amendment Order are set out below:

- Class B of Part 4 (Temporary Buildings and Uses) of Schedule 2 to the GDPO already permits the temporary use of land (excluding buildings), subject to limitations and conditions. This is reduced to 14 days for specified uses.
- Class A (Additional temporary use of land during the relevant period) in the new Part 4A (Temporary Changes of Use) of Schedule 2 will provide an additional 28 days (in addition to the period granted under Class B of Part 4) for the temporary use of land. This is reduced to an additional 14 for the holding of a market or motor car and motorcycle racing including trials of speed, and practicing for these activities.
- The erection of moveable structures such as stalls or marquees on that land to facilitate the temporary use is also permitted.

The permitted development rights (PDR) will have effect from 30 April 2021 to 3 January 2022. Further information is available in **Appendix A**.

Taxi and Private Hire Statistics 2020/2021

The Department for Transport (DFT) have recently announced statistics for the Taxi and Private hire trade (**Appendix B**). They report a 15.9% decrease in licensed vehicles in England since 2020 to 251,100 vehicles. However, during the same period, Ceredigion County Council experienced an increase of 13% in licensed private hire vehicles from 24 to 27. Ceredigion also experienced an increase of 2% in Hackney carriage vehicles from 139 to 142.

The DFT also reported a 5.7% decrease in the number of licenced drivers down to 343,800 drivers. Similarly, Ceredigion County Council experienced a 4% decrease in the number of licensed dual drivers from 234 down to 224, a decrease of 10 for the same period.

The (DFT) have attributed the decreases in the number of licensed vehicles and driver licences largely due to the effects of the coronavirus pandemic.

Local Government (Miscellaneous Provisions) Act 1976 – Taxi Hearings Application for Vehicle Licence – Private Hire

Only one Taxi hearing has been held since the last Licensing Committee.

Case Details: On 10th November 2020, the Authority received an application from a person residing in Aberystwyth for a private hire operators and private hire vehicle licences. The applicant applied in principal for the granting of a licence, which would enable him to operate a private hire business of providing guided tours using a motor cycle and side car. The vehicle the applicant proposed to operate was a Triumph Scrambler 900cc or 1200cc with a custom built sidecar.

Initially, the Authority was of the view that the vehicle could not be licensed as it did not meet the conditions contained within the taxi licensing Policy under “Vehicle Specification” under the following points:

2 ii) The vehicle must comply with all current statutory requirements for motor vehicles and with the non-statutory requirements imposed by the Licensing Authority. This condition is without prejudice to the powers granted under section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

2 iii) The vehicle must be a category M1 four wheeled motor vehicle fitted with four road wheels and have at least four doors or a category M1 minivan (e.g. Panel van converted for use as a WAV) with at least two doors excluding any door provided for the exclusive use of the driver. Double rear doors count as one.

The purpose of the Licensing Policy is to prioritise and ensure public safety, but it also allows supporting the local hackney carriage and private hire trade in order to sustain the local economy and to ensure that the residents of Ceredigion have safe, reliable access to public transport.

Decision: On 1st December 2020, a hearing was held remotely before a Licensing Sub-Committee to consider whether to grant a Private Hire Vehicle licence.

The panel heard evidence from the applicant who informed them that he had extensive experience during his previous career as a Police Officer and was a highly trained advanced Police motorcyclist and traffic officer. The panel also considered evidence from the Licensing Officer and considered relevant stated cases and legislation.

The Panel were very mindful of the need to be satisfied that passengers would be safe on the vehicle, and although case law states that a motorcycle is not safe or suitable to be a private hire vehicle, the sidecar added the safety element as the vehicle cannot tip over.

In addition to conditions imposed by the Licensing Authority, the panel agreed with the safety features proposed by the applicant, which included that passengers should wear helmets and a lap belt if in the side car, that no tours should be conducted in adverse weather, and that no persons under 16 years of age could travel on the vehicle or in the side car.

The Panel decided that the vehicle being proposed for use was suitable and safe for use as a private hire vehicle, pursuant to Sections 48 of the Local Government Miscellaneous Provisions)1976 Act.

Dog Breeding – Court Case Appeal

On 27 November and 22 December 2020, the Crown Court heard an appeal by Mr. D Wyn Jones, of Dorwan Kennels, Penrheol, Talsarn, relating to convictions for failing to comply with dog breeding license conditions.

Mr. D Wyn Jones had previously been convicted at Aberystwyth Magistrates Court of running a licenced dog breeding establishment far in excess of the number allowed on his licence and that the dogs in his care were kept in overcrowded conditions.

The Court heard evidence that Mr Jones had been granted a licence for 33 dogs. However, during a visit undertaken by Ceredigion County Council's Public Protection Officers on the 7th August 2019, they found 91 dogs at the premises excluding puppies, in breach of his licence. The dogs were kept in pens of a size that were inadequate for the number of dogs kept within them.

The Crown Court upheld the conviction that the dogs under the care of Mr. Jones were kept in overcrowded conditions in contravention of the minimum space standards required by the license conditions. Three other convictions relating to Mr Jones exceeding the number of dogs stipulated on his dog breeding establishment licence were overturned.

On 9 February 2021, Dorian Jones was fined £1,000 for the overcrowding offence, and ordered to pay legal costs amounting to £2,500.

General Update regarding Animal Welfare/Dog Breeding Legislation - New Regulations, Welsh Government Consultations, etc.

Following a review in 2019 of **The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014** conducted by the Animal Health and Welfare framework Group on behalf of Welsh Government, a report (see **Appendix C**) was published that contained

several recommendations to address the measures needed to tackle the barriers to enforcement of the Regulations.

The recommendations ranged in type but were grouped into six categories:

1. Guidance for local authorities
2. Third Party Sales of puppies and kittens
3. Amendments to the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014
4. The enforcement of the regulations
5. Recommendations relating to veterinary involvement and training
6. Other Recommendations

Welsh Government, as part of the review process has recently updated the Guidance that Local Authorities use when assessing applications and inspecting premises and is currently consulting on the revised guidance for local authorities for dog breeding establishments: <https://gov.wales/dog-breeding-establishments-local-authority-guidance>.

The consultation will close on 17 September 2021.

Welsh Government has also launched the “Local Authority Dog Breeding Enforcement Project”. The objective of the project is to develop a consistent approach to applying licence conditions, inspections and enforcement and maximise the potential to maintain performance and levels of service. It encourages sharing of expertise to provide better resilience and flexibility to consumers (i.e. prospective puppy purchasers) and dog breeding businesses alike.

The project, includes the development of a regional dog breeding intelligence strategy, led by Trading Standards Wales, to increase effectiveness in fighting and preventing illegal and unlicensed dog breeders.

The project also seeks to develop consistency in the dog breeding industry, which will ensure improvements to the health and welfare of dogs, and puppies in Wales. This will also help improve the reputation of the dog breeding industry in Wales.

Also in response to the review, Welsh Government has introduced new legislation, **The Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021**, also referred to as “*Lucy’s Law*”, which comes into force on the 10th September 2021.

These Regulations provide for the licensing of persons involved in Wales in selling animals as pets and make it an offence for commercial third parties to sell puppies and kittens under 6 months.

This landmark new legislation is intended to tackle the low-welfare, high volume supply of puppies and kittens, by banning their commercial third-party sales in Wales. It means that anyone wanting to get a new puppy or kitten in Wales must now buy direct from a breeder, or consider adopting from a rescue centre instead. Licensed dog breeders are required to show puppies interacting with their mothers in their place of birth.

Subject to qualifying criteria, any person wishing to carry on any of these activities in Wales must obtain a licence from the local authority under these Regulations.

These requirements also replace the requirements, in Wales, to obtain a licence under the Pet Animals Act 1951.

The Regulations set out how a person may apply to the local authority for a licence and sets out matters in respect of which a local authority must be satisfied when considering the grant or renewal of a licence. It also specifies that a local authority must attach certain licence conditions to each licence granted or renewed.

It provides for a local authority to charge fees to cover the costs it incurs in performing this function, considering a licence holder's compliance with these Regulations, enforcement and administration. The Licensing team will be reporting on the new fees to Cabinet in due course.

It provides that a local authority must appoint an inspector when it considers it appropriate, for the purpose of ensuring that the licence conditions are being complied with.

It requires a local authority to have regard to guidance issued by the Welsh Ministers in carrying out their functions under these Regulations.

To accompany the new regulations, Welsh Government is also currently consulting on new statutory guidance to assist local authorities in the licensing of pet sales: <https://gov.wales/pet-sales-licensing-regulations-local-authority-guidance>. This consultation closes on 1 October 2021.

Recommendation: Members to receive the report for information.

Reason for recommendation: To advise the Committee Members of activities undertaken by the Licensing Section and to provide updates on licensing matters since the last Committee meeting.

Policy: The Council will provide services that contribute to a healthy environment, healthier lives and protect those who are vulnerable in the County.

Budget: In accordance with Departmental budgetary provision

Human Rights Act: Compliant

Statutory powers:
Licensing Act 2003, Gambling Act 2005

Background papers:

Service area: Policy, Performance and Public Protection.

Contact name: Anne-Louise Davies

Designation: Trading Standards & Licensing Manager

Date of report: 27/08/2021

Appendix A - Coronavirus (COVID-19): New temporary permitted development rights to support economic recovery

Appendix B – Department for Transport: Taxi and Private Hire Vehicle Statistics, England: 2021

Appendix C – Review of the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014: A report of recommendations to the Welsh Government by the Wales Animal Health and Welfare Framework Group



Llywodraeth Cymru
Welsh Government

GUIDANCE

Coronavirus (COVID-19): New temporary permitted development rights to support economic recovery

We are temporarily relaxing planning control for specified development through amendments to the Town and Country Planning (General Permitted Development) Order 1995.

First published: 6 April 2021

Last updated: 6 April 2021

Heads of Planning,
Local Planning Authorities in Wales

30/03/2021

Dear Colleagues

To support the reopening of businesses and their efforts to create safe environments for the public to feel confident to return to the high street,

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hospitality and tourism sectors, the Welsh Government are temporarily relaxing planning control for specified development through amendments to the Town and Country Planning (General Permitted Development) Order 1995 (the “GPDO”).

As was evidenced following the end of lockdown in spring 2020, once restrictions upon the movement of people are relaxed and businesses begin to reopen, there is a demonstrable need for measures to be put in place to create safe environments, both on private property and within the public realm. Some of these actions constitute development under section 55 of the Town and Country Planning Act 1990 but where the adverse planning impacts are not significant, we do not want the planning system to act as a barrier to recovery.

We are seeking to utilise the GPDO to provide greater flexibility for changes of use within town centres. The proposed temporary permitted development rights (PDRs) also provide a coordinated approach in respect of grant funding that has been made available for the private sector to adapt property and the public realm to meet the comprehensive social distancing changes required in town centres as a result of the COVID-19 pandemic.

The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2021 (“the Amendment Order”) comes into force on 30 April. The provisions contained within the Amendment Order are set out below.

Additional temporary use of land during the relevant period (Class A, Part 4A)

Class B of Part 4 (Temporary Buildings and Uses) of Schedule 2 to the GPDO already permits the temporary use of land (excluding buildings) for 28 days, subject to limitations and conditions. This is reduced to 14 days for specified uses.

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Class A (Additional temporary use of land during the relevant period) in the new Part 4A (Temporary Changes of Use) of Schedule 2 will provide an additional 28 days (in addition to the period granted under Class B of Part 4) for the temporary use of land. This is reduced to an additional 14 for the holding of a market or motor car and motorcycle racing including trials of speed, and practising for these activities.

The erection of moveable structures such as stalls or marquees on that land to facilitate the temporary use is also permitted.

Environmental and historic environment protections apply. Development is excluded where:

- The land is a building
- The land is within the curtilage of a building where there is a scheduled ancient monument within that curtilage;
- the land is within a National Park and the use of the land is for a car park that is not ancillary to a temporary use under this class;
- the use of the land is for a caravan site;
- the land is, or is within, a site of special scientific interest or is within the curtilage of a listed building and the use of the land is for:
 1. motor car and motorcycle racing including trials of speed or other motor sports, and practising for these activities;
 2. clay pigeon shooting;
 3. any war game;
- the use of the land is for the display of an advertisement

The PDR will have effect from 30 April 2021 to 3 January 2022.

Where the above PDRs do not facilitate a temporary use and therefore a planning application is required, LPAs should prioritise these applications. Authorities should seek to support to businesses and organisations, where the planning impacts are acceptable, to maximise their potential to operate over the

forthcoming spring/summer months as coronavirus COVID-19 control measures are relaxed. Short term permissions and conditions should be used to manage planning impacts which would be inappropriate on a permanent basis.

Holding of a market by or on behalf of a local authority (Class B, Part 4A)

To assist local authorities in their efforts to support businesses and provide safe environments for the public following the relaxation of the COVID-19 restrictions, Class B of Part 4A introduces new PDRs which permit the use of land (excluding land within a site of special scientific interest) for an unlimited period to provide a market held by, or on behalf of, a local authority. The erection of temporary moveable structures, such as stalls or awnings, to facilitate the use are permitted.

The PDR will have effect from 30 April 2021 to 3 January 2022.

Temporary uses – Town Centres (Classes C–E, Part 4A)

Prior to the pandemic, there was a growing need for diversifying retail and commercial centres so they can adapt to future retail trends to continue to meet the needs of their local communities, this will be even more important as we move forward due to the impact of COVID-19.

In the short term, the Welsh Government wants to facilitate temporary changes of use to enable businesses to trial alternative uses within town centres for a short period of time. This is intended to enable them to trial alternative uses and get initial feedback as to whether the start-up is likely to be viable without the expense and delay associated with submitting a planning application.

The permitted changes are as follows:

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Part 4A Existing Use (within town centres only) Permitted Change

Class C Use class A1 (shops)

- A2 (financial and professional services);
- A3 (food and drink);
- B1 (business);
- D1 (non-residential institutions);
- D2 (assembly and leisure).

Class D Use class A2 (financial and professional services)

- A1 (shops);
- A3 (food and drink);
- B1 (business);
- D1 (non-residential institutions);
- D2 (assembly and leisure).

Class E Use class A3 (food and drink)

- A1 (shops);
 - A2 (financial and professional services);
 - B1 (business);
 - D1 (non-residential institutions);
 - D2 (assembly and leisure).
-

The permitted changes only apply to buildings within a town centre as identified in a development plan. A detailed definition is provided within the interpretation of Part 4A. The whole planning unit must fall within the town centre boundary.

To protect residential amenity, for all permitted changes of use, development is not permitted if the proposed A3 use is the sale of hot food for consumption off the premises; or where the proposed use is Class B1(c) (i.e. for any industrial

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process). These uses could potentially result in planning impacts that require further consideration through the submission of a planning application.

A notification procedure applies to assist with monitoring. LPAs are asked to retain a record of all notifications received in a format that can be shared with the Welsh Government at the end of the prescribed period.

All changes of use that take place are permitted for a six month period beginning with the date on which the development began and must end on or before 29 April 2022, unless planning permission is granted for the retention of the use. The use of the building may revert to the original use at any time during the six month period.

If the businesses thrive during the six month trial period, planning permission can be sought and the local planning authority would have an evidence base from which to assess the impact of the alternative use. Where it has been demonstrated during the temporary period that the planning impacts are minimal, or where the impacts could be managed through conditions, sufficient weight should be given to the social, economic and broad regeneration benefits of retaining an alternative use.

Hospitality uses - outdoor servery provision (Class F, Part 4A)

As coronavirus controls are relaxed, the hospitality industry may be subject to limitations on how they trade, similar to those imposed in 2020. Only being able to operate outdoors (or with limited indoor space) means many hospitality businesses will rely on highway space to make their operations viable.

To regularise the lawfulness of creating a mixed use, Class F of Part 4A permits the use of the highway adjacent to premises falling within Class A3 (food and drink) for the purposes of selling or serving food or drink supplied from those

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premises, or consuming food or drink supplied from those premises. The placement of removable furniture to facilitate the use is also permitted. This includes tables, forms of seating, counters, stalls, umbrellas, barriers and heaters or other articles used in connection with the outdoor consumption of food or drink.

Permission for the use of the relevant part of the highway must have been obtained from the highway authority, and development undertaken in accordance with any conditions in order to constitute permitted development. Use of the area by customers is also prohibited between 10 p.m. and 8 a.m. to protect the amenity of neighbouring residential properties.

The PDR will have effect from 30 April 2021 to 3 January 2022.

Also during this period, local planning authorities should maintain a flexible, supportive approach where businesses seek to utilise their curtilage for the provision of food and drink, including the erection of temporary structures. Local planning authorities should agree not to take enforcement action (in cases where development occurs, or where conditions may restrict the use of car parks/curtilage) during this period unless there is a significant planning impact.

Hospitality uses – awnings (Class D, Part 42)

The Welsh Government has provided funding through local authorities, for businesses and third sector partners to address the issues faced in town centres as a result of the COVID-19. This is intended to cover a number of interventions that will facilitate trading and enhance public safety and the look and feel of town centres to help restore confidence. This includes awnings over external areas where customers and members of the public congregate to be served food or drink or rest.

Class D of Part 42 therefore permits the erection of retractable awnings over the

frontage of premises falling within Use Class A3 (food and drink) of the Schedule to the UCO to facilitate outdoor trading space for hospitality uses.

Development is excluded within article 1(5) land, World Heritage Sites, and listed buildings due to the need for more detailed consideration of the planning impacts upon their special character.

Conditions apply to limit the visual impact, requiring any awning to be fully retractable, with no means of support from the public highway and exclude any side or front panels extending towards the ground. It must also be fully retracted between 10 p.m. and 8 a.m.

Where an awning extends over a public highway, to mitigate any impacts upon highway safety, permission must have been obtained from the relevant highway authority under section 115E of the Highways Act 1980 for the installation of the awning and the use of the space under it.

The Welsh Government will be monitoring the impact of these amendments with a view to making broader, permanent amendments to the GPDO next year. These changes will be subject to engagement with stakeholders and a public consultation.

Please contact planning.directorate@gov.wales should you have any queries.

Yours sincerely,

Neil Hemington
Prif Gynllunydd | Chief Planner
Cyfarwyddiaeth Cynllunio | Planning Directorate

About this document

This document is a copy of the web page [Coronavirus \(COVID-19\): New temporary permitted development rights to support economic recovery](https://gov.wales/coronavirus-covid-19-new-temporary-permitted-development-rights-support-economic-recovery-html) downloaded.

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Department for Transport

Taxi and Private Hire Vehicle Statistics, England: 2021

About this release

This statistical release presents information on taxis and private hire vehicles in England as at 31 March 2021. This includes PHV operators and drivers who use app-based technology. However, we are not able to disaggregate which drivers are using these apps in the figures presented.

Figures are updated every year through surveying each licensing authority (a unitary or lower tier authority) in England and Wales.

This release refers to England only but data for Wales can be found online [here](#).

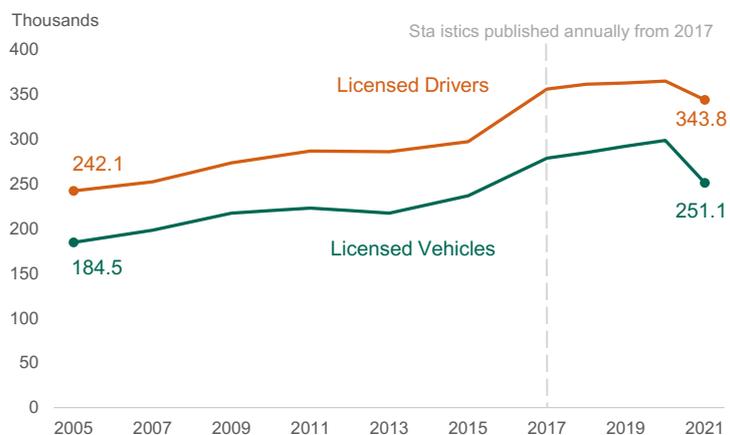
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Between 2020 and 2021 the total number of licensed taxi and private hire vehicles and licensed drivers in England fell.

Chart 1: Total licensed taxi and private hire vehicles and drivers: England, since 2005 ([TAXI0102](#))



The total number of licensed vehicles in England decreased by 15.9% since 2020, to 251,100. Just over three quarters (77%) of licensed vehicles are Private Hire Vehicles (PHVs).

There were 343,800 driver licences in 2021, a decrease of 5.7% compared to the previous year.

The decreases in the numbers of licensed vehicles and driver licences has largely been attributed to the coronavirus pandemic. The rate of decrease has been greater for licensed vehicles at least in part because licence lengths for vehicles are generally shorter than those for drivers.

Total licensed taxi and private hire vehicles

251,100 ✓ **15.9%**
in England in 2021 since 2020

Total taxi and PHV driver licences

343,800 ✓ **5.7%**
in England in 2021 since 2020

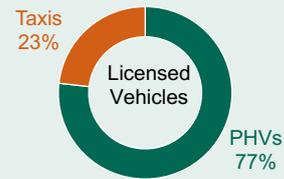
Comment on coronavirus (COVID-19) impact

The data covered by this release is for the year ending March 2021, which coincides with the measures implemented from March 2020 onward to limit the impact of the coronavirus (COVID-19) pandemic.

Responsible Statistician: Julie Sullivan Email: taxi.stats@dft.gov.uk
 Further Information: Media: 020 7944 3066 Public: 020 7082 6602

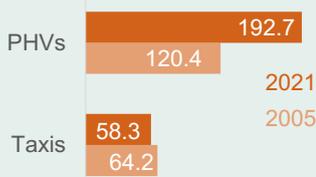
Taxi and PHV Factsheet: England, 2020/21

Licensed Vehicles



Around three quarters of all licensed vehicles are PHVs

Numbers of vehicles, thousands



Over a third of all licensed vehicles are licensed in London

Licensed Drivers



Licensed Operators



Drivers [LFS]



The majority of drivers are men



The average age of drivers is 48.

22% of drivers are under 40.

Passenger journeys per person per year, 2019 [NTS]

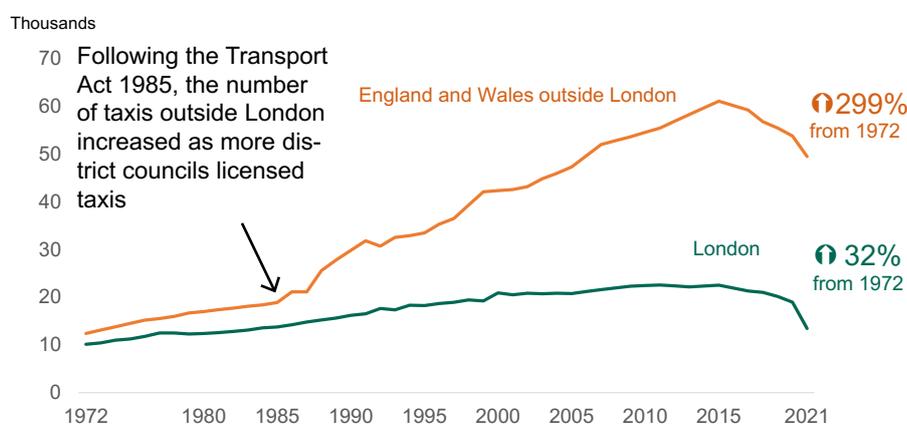


People without access to a car make around 4 times as many taxi/PHV trips and travel twice as far as those that have access to a car.

Long term taxi trends

Between 1972 and 2015 the numbers of licensed taxis in London, and in England and Wales outside London, both broadly followed an increasing trend, albeit at different rates. Since 2015 however the numbers have decreased although are still substantially higher as compared to 1972: the numbers of licensed taxis quadrupled in England and Wales outside of London (increasing from 12,400 to 49,500), while over the same period the numbers in London increased by a third (increasing from 10,100 to 13,400). Prior to 2005 the only data available relates to the number of licensed taxis and the number of licensed taxi drivers for England and Wales. Other than for London, data at a lower geographical level is not available.

Chart 2: Licensed taxi vehicle numbers in London, and England and Wales outside London, from 1972 (TAXI0101)



Taxis

Taxis, also known as hackney carriages, are available for immediate hire, can be hailed in the street ('ply for hire') or accept pre-bookings. Taxis have two types of licences: a vehicle licence (issued to the owner of the taxi) and a driving licence.

Private Hire Vehicles (PHVs)

Private hire vehicles, also known as minicabs, must be pre-booked and cannot use taxi ranks. It is illegal for PHVs to ply for hire. PHVs have three types of licences: a vehicle licence, a driving licence and an operator licence.

2021 summary

Table 1 summarises the 2021 taxi and PHV licensing statistics. Figures for licensed vehicles, PHV operators and drivers are shown for London, England outside London, and England.

Table 1: Summary of 2021 taxi and private hire vehicle licensing figures compared with 2020 (TAXI0102)

	Thousands		
	London	England outside London	England
	March 2021 figure and percentage change compared to March 2020		
Total licensed vehicles	91.0 ↓ -20.9%	160.1 ↓ -12.8%	251.1 ↓ -15.9%
Taxis	13.4 ↓ -29.2%	44.9 ↓ -8.1%	58.3 ↓ -14.0%
wheelchair accessible taxis	13.4 ↓ -29.2%	18.3 ↓ -8.3%	31.7 ↓ -18.5%
Private Hire Vehicles (PHVs)	77.5 ↓ -19.2%	115.2 ↓ -14.6%	192.7 ↓ -16.5%
wheelchair accessible PHVs	0.5 ↓ -8.3%	4.2 ↑ 1.0%	4.7 ↑ -0.1%
Licensed PHV operators	2.0 ↓ -7.9%	13.1 ↓ -5.2%	15.1 ↓ -5.6%
Total licensed drivers	126.1 ↓ -5.9%	217.6 ↓ -5.7%	343.8 ↓ -5.7%
Taxi only licences	20.8 ↓ -7.2%	25.3 ↓ -7.1%	46.1 ↓ -7.1%
PHV-only licences	105.3 ↓ -5.6%	113.9 ↓ -6.5%	219.3 ↓ -6.1%
Dual licences	0.0 ↔ 0.0%	74.1 ↓ -5.3%	74.1 ↓ -5.3%
Both Taxi and PHV licences	0.0 ↔ 0.0%	4.2 ↑ 30.5%	4.2 ↑ 30.5%

Transport for London

publish taxi and PHV statistics. For more information see [here](#).

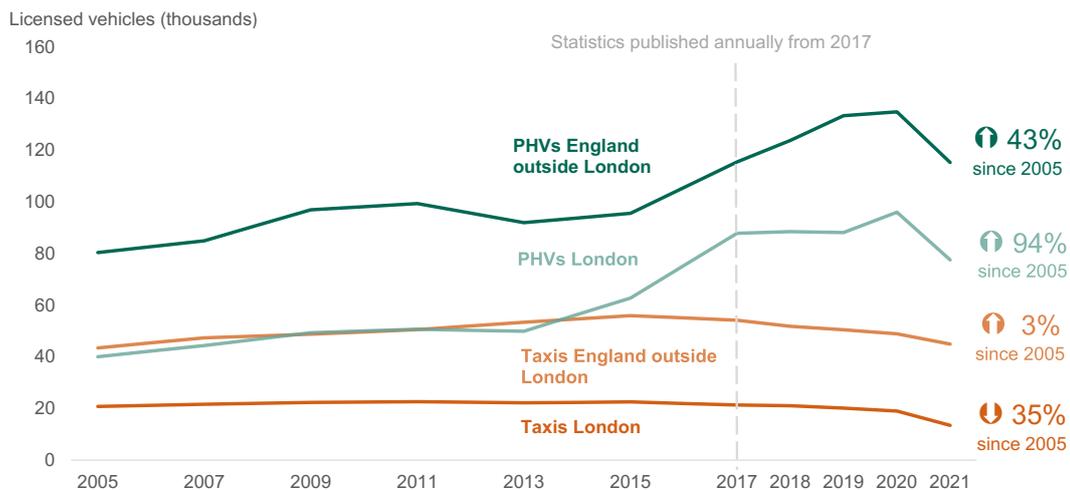
Further statistics

on the number of licensed taxis and PHVs in Scotland (which operates under a different licensing regime) are collected by the Scottish Government and published in Scottish Transport Statistics [here](#).

Licensed vehicles

There were 251,100 licensed taxis and PHVs in England in 2021. Around a quarter (58,300) of these vehicles were taxis (see chart 3). The total number of licensed vehicles decreased by 15.9% from 2020, which has been largely attributed to the pandemic. While the decrease in taxis and PHVs have been broadly similar, the decrease has been slightly more pronounced in London (with a decrease in the total number of vehicles of 20.9%) as compared to England outside of London (which saw a decrease of 12.8%). Overall the total number of licensed vehicles in England has increased by 36.1% since 2005.

Chart 3: Licensed vehicles by type and area: England, since 2005 ([TAXI0101](#))



There were 58,300 licensed taxis in 2021, a 14.0% decrease from 2020. There was a larger decrease in taxis in London compared to England outside of London, 29.2% and 8.1% respectively.



There were 192,700 licensed PHVs in 2021, a 16.0% decrease from 2020. There was a larger decrease in PHVs in London compared to England outside of London, 19.2% and 14.6% respectively.

Licensing authorities (outside London) are able to impose limits on the numbers of taxis licensed to operate within their area. However, they are unable to impose such limits on PHVs. In 2021 77 licensing authorities (28% of licensing authorities with licensed taxis) applied a limit on the numbers of licensed taxis, with a further 8 setting limits in some, but not all, of the areas they cover. This rate has been the same since 2019

Of those licensing authorities with a limit on the numbers of taxis, 58 licensing authorities (75% of those with a limit) have conducted an unmet demand survey within the last five years.

Licensed vehicles: Regional and local trends

In England total licensed vehicle numbers decreased between 2020 and 2021 in all regions, although there were variations in the rates of decrease.

Table 2: Change in licensed vehicles by region between 2020 and 2021, England ([TAXI0103](#))

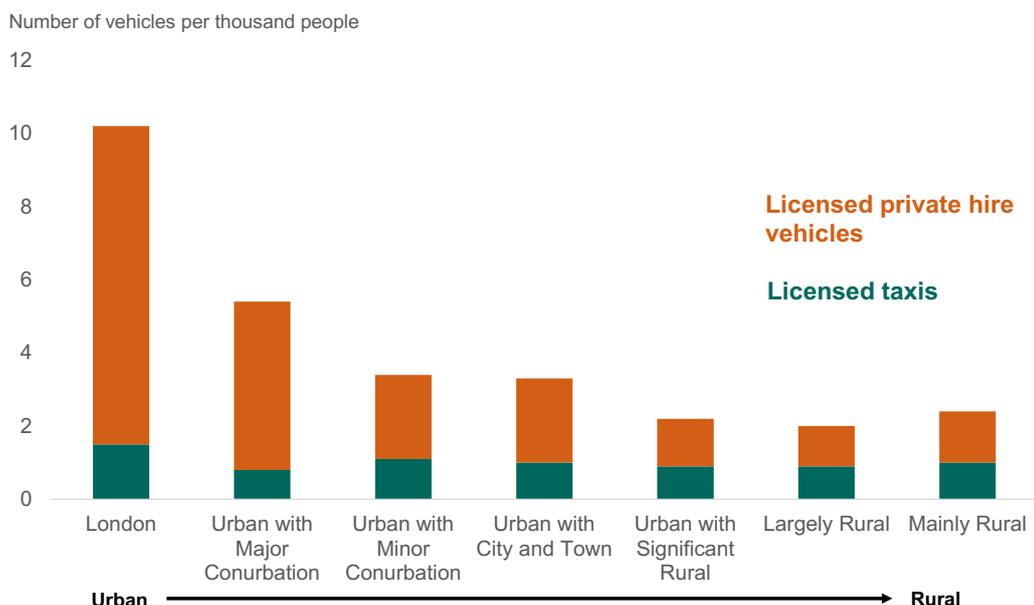
	Thousands					
	Total licensed vehicles		Licensed taxis		Licensed PHV	
	<i>March 2021 figure and percentage change compared to March 2020</i>					
England	251.1	⬇️ -15.9%	58.3	⬇️ -14.0%	192.7	⬇️ -16.5%
North East	9.2	⬇️ -13.4%	3.6	⬇️ -10.1%	5.7	⬇️ -15.3%
North West	32.3	⬇️ -12.8%	7.8	⬇️ -2.7%	24.5	⬇️ -15.5%
Yorkshire and the Humber	20.7	⬇️ -9.9%	3.6	⬇️ -4.3%	17.1	⬇️ -11.0%
East Midlands	13.0	⬇️ -4.8%	4.8	⬇️ -5.9%	8.1	⬇️ -4.1%
West Midlands	27.0	⬇️ -16.7%	4.9	⬇️ -11.5%	22.1	⬇️ -17.8%
East of England	17.9	⬇️ -12.4%	6.1	⬇️ -9.1%	11.8	⬇️ -14.1%
London	91.0	⬇️ -20.9%	13.4	⬇️ -29.2%	77.5	⬇️ -19.2%
South East	25.8	⬇️ -15.0%	8.8	⬇️ -10.7%	17.0	⬇️ -17.0%
South West	14.3	⬇️ -12.3%	5.3	⬇️ -9.7%	9.0	⬇️ -13.7%

Licensed taxi and PHV vehicles per 1,000 people

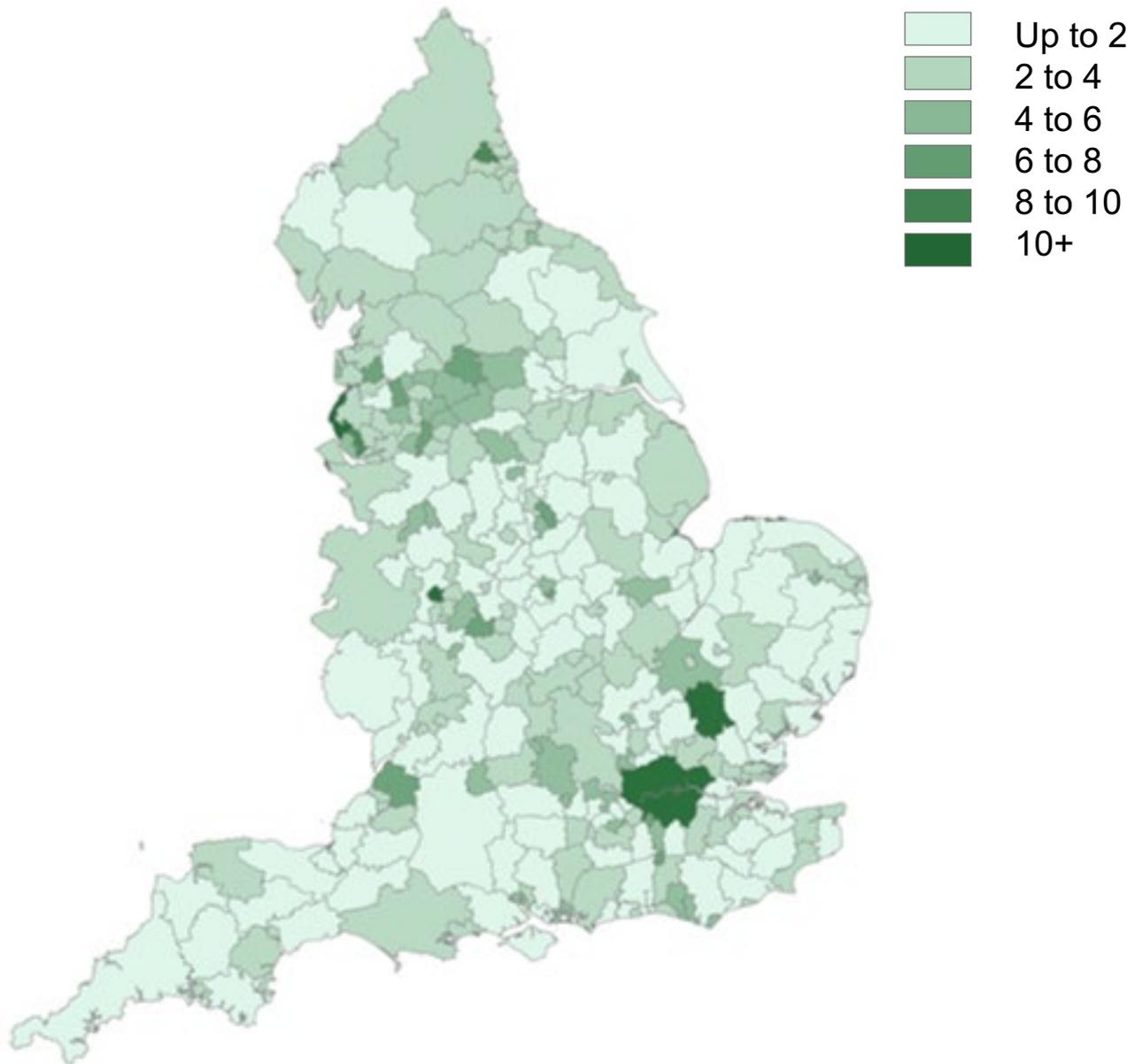
In 2021 there were on average 4.5 licensed taxi and PHV vehicles per 1,000 people in England, a reduction from 5.3 in 2020. The number of licensed vehicles per 1,000 people generally decreases as areas become more rural.

In London there were 10.1 licensed vehicles per 1,000 people, more than double the national average, with 3.4 licensed PHVs and 1.0 licensed taxis per 1,000 people.

Chart 4: Number of licensed taxis and private hire vehicles per 1,000 people by urban/rural classification, England 2021 ([TAXI0105](#))



Map 1: Licensed vehicles (taxis and PHV) per 1,000 people by licensing authority, England
([TAXI0105](#))



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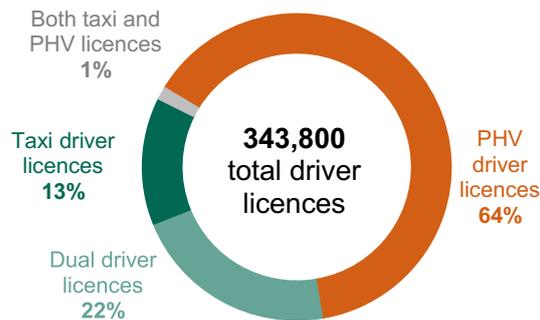
Table 3: The licensing authorities with the largest and smallest number of licensed vehicles per 1,000 of the population , England ([TAXI0105](#))

Local Authority	Vehicles (per 1,000)	Local Authority	Vehicles (per 1,000)	Local level changes Large year on year changes can occur in a licensing authority for a number of reasons, such as a large operator moving in or out of a given licensing area, or significant changes in local licensing policy
Wolverhampton	37.0	Newark and Sherwood	0.7	
Uttlesford	25.9	Staffordshire Moorlands	0.7	
Sefton	15.6	Forest of Dean	0.7	
London	10.1	Mid Suffolk	0.7	

Licensed drivers

There were 343,800 driver licences in England, 20,900 (5.7%) less than in 2020.

Of the total licences, 64% were PHV-only licences, 13% were taxi-only licences and 22% were dual taxi/PHV licences.



Dual driver licence

A combined licence allowing the holder to drive both taxis and PHVs.

In England total licensed driver numbers decreased between 2021 and 2020. Decreases were seen in the number of PHVs across all regions, although there were variations in the rates of decrease. Decreases were also seen in the number of taxis except for in the Yorkshire and the Humber.

Table 4: Change in total driver licences (taxi-only, PHV-only and dual) by region between 2020 and 2021, England ([TAXI0103](#))

	Thousands							
	Total driver licences ¹		Taxi driver licences		PHV driver licences		Dual driver licences	
	March 2021 figure and percentage change compared to March 2020							
England	343.8	⬇️ -5.7%	46.1	⬇️ -7.1%	219.3	⬇️ -6.1%	74.1	⬇️ -5.3%
North East	12.8	⬇️ -4.2%	3.0	⬇️ -12.7%	6.9	⬇️ -0.3%	2.1	⬇️ -9.4%
North West	45.5	⬇️ -4.2%	7.8	⬇️ -5.7%	28.2	⬇️ -6.2%	7.3	⬇️ -4.6%
Yorkshire and the Humber	27.6	⬇️ -3.7%	2.5	⬆️ 8.7%	14.8	⬇️ -5.1%	9.9	⬇️ -3.4%
East Midlands	16.9	⬇️ -4.9%	0.9	⬇️ -6.4%	3.8	⬇️ -4.8%	12.2	⬇️ -4.8%
West Midlands	39.9	⬇️ -6.1%	3.0	⬇️ -7.3%	27.8	⬇️ -5.5%	9.0	⬇️ -7.7%
East of England	22.5	⬇️ -5.0%	1.5	⬇️ -8.6%	7.1	⬇️ -9.7%	13.9	⬇️ -2.0%
London	126.1	⬇️ -5.9%	20.8	⬇️ -7.2%	105.3	⬇️ -5.6%	0.0	↔️ 0.0%
South East	34.8	⬇️ -8.9%	3.6	⬇️ -13.6%	17.3	⬇️ -10.2%	13.7	⬇️ -7.2%
South West	17.6	⬇️ -7.5%	3.1	⬇️ -6.7%	8.1	⬇️ -8.7%	6.0	⬇️ -7.8%

1. The components may not sum to the total as this table excludes the numbers holding both a taxi and PHV licence

Licensed PHV operators

The number of licensed PHV operators decreased by 5.6% to 15,100 from the previous year, and 8.6% lower than the peak in PHV operators at 16,500 in 2009. PHV operators declined by 7.9% to 2,000 operators in London and decreased by 5.2% to 13,100 operators in England outside London.

Private Hire Vehicle operators

need to be licensed to accept bookings and dispatch PHVs to customers."

Total licensed PHV operators in England outside London

13,100 in 2021
 ↓ 5.2% since 2020

Total licensed PHV operators in London

2,000 in 2021
 ↓ 7.9% since 2020

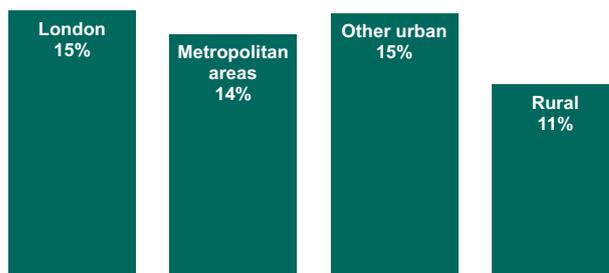
In the year ending 31 March 2021, 1,431 applications were made by new PHV operators (either new companies, or existing operators not already licensed by that licensing authority).

In England, 15% of all licensed vehicles were wheelchair accessible. 54% of all taxis were wheelchair accessible in 2021 while 2% of PHVs were wheelchair accessible. This is similar to the proportions in 2020.

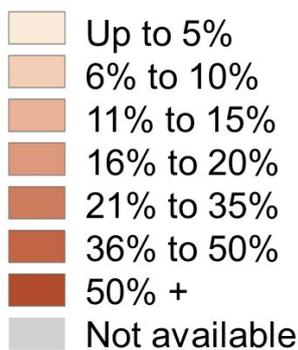
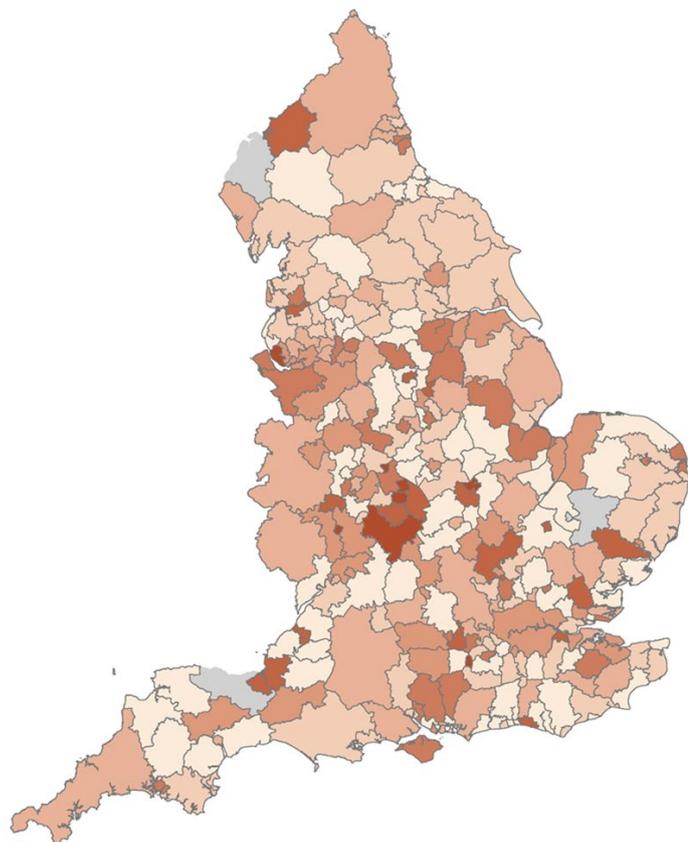
In England outside London 15% of all licensed vehicles were wheelchair accessible. However all 13,400 London taxis were wheelchair accessible as required by Transport for London’s ‘Conditions for Fitness’ taxi licensing policy.

Chart 5: Proportion of licensed vehicles that were wheelchair accessible in 2021 by urban/rural classification, England ([TAXI0105](#))

In England outside London 14% of all licensed vehicles were wheelchair accessible. However this varies by area and vehicle type: 81% of taxis in metropolitan areas were wheelchair accessible areas. When looking at PHVs, only 1% of licensed vehicles in London were wheelchair accessible, but this increased to 9% in rural areas



Map 2: Proportion of licensed vehicles that were wheelchair accessible in 2021 by licensing authority, England ([TAXI0104](#))



Urban/rural classification

Metropolitan areas represent the Passenger Transport Executives. Other urban and rural categories were defined using the Department for Environment, Food and Rural Affairs urban and rural classification which can be found [here](#).

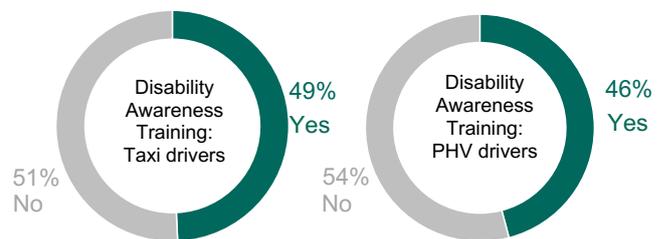
Note

Some areas are unable to provide numbers of wheelchair accessible taxis and/or PHVs. Estimates should be treated with caution.

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Training requirements [\(TAXI0110\)](#)

The increase in the number of authorities requiring disability awareness training for taxi and PHV drivers has continued in 2021. The number of authorities requiring disability awareness training for taxi drivers has increased from 44% in 2019 to 49% in 2021, while the number of authorities requiring disability awareness training for PHV drivers has increased from 41% to 46%.



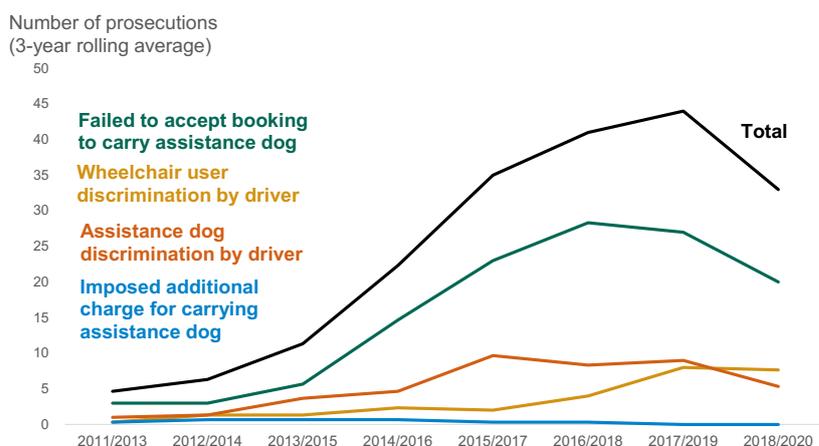
Wheelchair policies [\(TAXI0110\)](#)

66% of authorities require all or part of the taxi fleet to be wheelchair accessible, a small increase from 65% in 2019. However, only 5% of authorities require all or part of the PHV fleet to be wheelchair accessible. 79% of authorities maintain a list of wheelchair accessible taxis in accordance with section 167 of the Equality Act 2010 (an increase from 72% in 2019), while 70% maintain a list of wheelchair accessible PHVs (an increase from 63% in 2019).

Equality Act 2010 Prosecutions in England and Wales

In the year ending 31 December 2020 there were 14 prosecutions for offences committed by taxi and private hire vehicle drivers and operators in relation to sections 168 and 170 (assistance dog refusals by taxi and PHV drivers), and section 165 (wheelchair user discrimination by taxi and PHV drivers) in England and Wales, a decrease on the number in 2019. However this decrease reflects the restricted operation of courts as a result of the pandemic.

Chart 6: Prosecutions for offences by taxi and PHV drivers and operators under the Equality Act 2010, England and Wales, 2011 to 2020



Over this time period the majority of prosecutions were for failing to accept bookings to carry assistance dogs (70%). In 2019, 81% of prosecutions led to a conviction. This conviction rate has been fairly stable since 2013, and most convictions result in a fine.

Further information

Defendants for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed.

This is bespoke analysis from the Criminal Justice System quarterly statistical series, year ending December 2020. More information can be found [here](#)

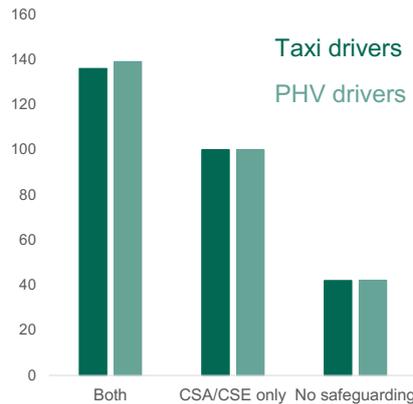
Safeguarding policies

Over four-fifths of authorities required taxi drivers (85% or 236 out of 278) and PHV drivers (85% or 239 out of 281) to complete child sexual abuse (CSA) or child sexual exploitation (CSE) training. These proportions have increased from 70% and 71% (for taxi and PHV drivers respectively) in 2018. 49% of licensing authorities require both CSA/CSE training and county lines training.

Further information

The total number of English licensing authorities may not always be 281 as some authorities were not required to provide a response or did not answer the question.

Chart 7: Number of authorities requiring child sexual abuse/child sexual awareness training and county lines training, England 2021 (TAXI0109)



Security checks (TAXI0109)

All authorities required an enhanced DBS (Disclosure and Barring Service) security check for taxi and PHV drivers.

The majority of authorities also required barred lists checks for taxi drivers (95%, 263 out of 278) and PHV drivers (95%, 267 out of 281). The proportions of authorities requiring enhanced DBS and barred list checks has grown from 79% (for both taxi and PHV drivers) in 2017.



CCTV (TAXI0108)

Similar to the previous year, 5% of authorities had a requirement for all licensed taxis to have CCTV fitted (14 out of 278) and 4% had a requirement for all licensed PHVs to have CCTV fitted (12 out of 281). Of the authorities with the CCTV requirement, 8 had a requirement for the CCTV to have the facility to record audio in taxis, and 8 had this requirement for PHVs, the same as in 2020.



Almost all of the authorities without the CCTV requirement did allow licensed vehicles to have CCTV fitted (97%, 257 out of 278, for licensed taxis and 98%, 263 out of 281 for licensed PHVs).

National register of Revocations and Refusals (NR3) (TAXI0112)

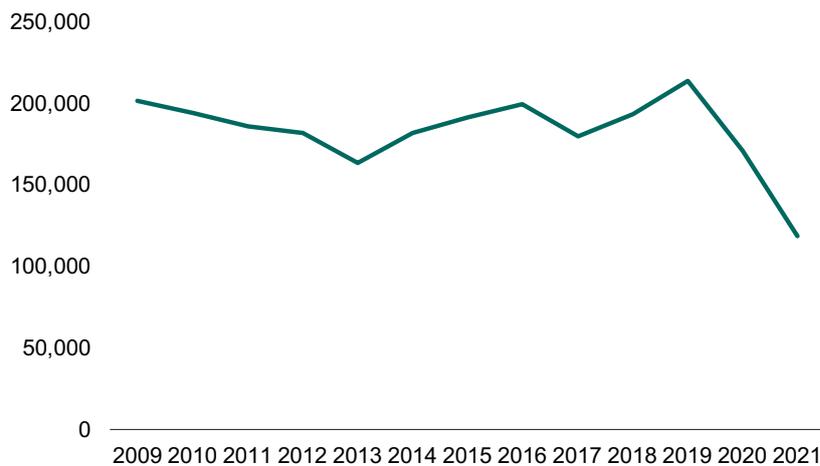
As at 31 March 2021 48% of authorities submitted data to NR3, and 50% used the NR3 when making licensing decisions. An increase from 39% and 40% respectively at 31 March 2020.

Taxi drivers

The Labour Force Survey collects information about individuals in the labour market. The data can be used to provide insight into taxi and PHV drivers.

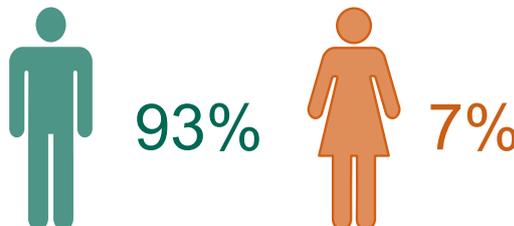
There were an estimated 119,000 drivers operating in England during 2020/21, which is 31% lower than 2019/20 (171,000) and 36% lower than ten years ago (186,000 in 2010/11).

Chart 9: Number of “Taxi and cab drivers and chauffeurs”, England, 2008/09 to 2020/21 (Labour Force Survey)



Who drives taxis?

The majority of drivers were male (93%) in 2020/21. The proportion of female drivers has increased from 2% in recent years to 7% in 2020/21.



Similar to last year, the average age of a driver was 48 years old, with 22% of drivers being aged under 40. Those aged 60 or over made up 20% of drivers. There has been a slight shift in the age profile of drivers over the past ten years, with a slightly smaller proportion of younger drivers and a slightly larger proportion of older drivers.

The two main ethnic groups of drivers were White and Asian or Asian British in 2020/21, making up 43% and 44% of drivers respectively. This compares to 63% and 29% respectively in 2009/10. There was an increase in the proportion of non-UK nationals working as drivers in England, rising from 13% in 2009/10 to 25% in 2020/21.

Labour Force Survey

The Labour Force Survey (LFS) is a large study of the employment circumstances of the UK population, run by the Office for National Statistics (ONS). More information can be found [here](#).

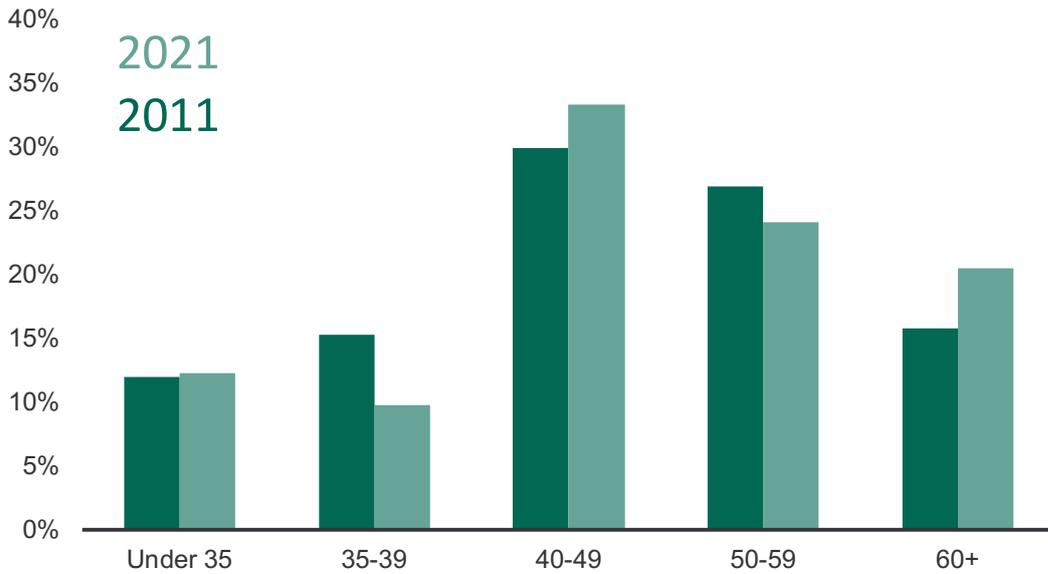
Licences vs. drivers

The majority of this release talks about licences held, rather than drivers. Since the respondent self-reports their current occupation, it is possible for a person to hold a licence and not work as a driver, or for a person to not hold a licence but still claim to work as a driver.

Drivers

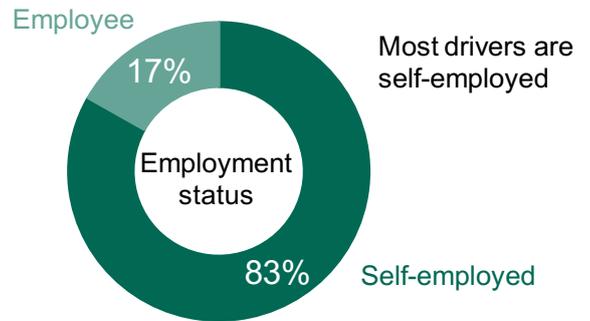
The drivers in this section are defined using the Standard occupational classification system, SOC 2020, as “Taxi and cab drivers and chauffeurs” (code 8213), which will contain taxi drivers, PHV drivers and chauffeurs. The respondent reports their occupation to the interviewer and is then classified in this way during the interview, so the exact occupation of each respondent cannot be determined. As part of the interview respondents are asked whether they are employed or self-employed, but this may differ to their status under employment legislation

Chart 10: Age profile of “Taxi and cab drivers and chauffeurs”, England, 2010/11 and 2020/21 (Labour Force Survey)



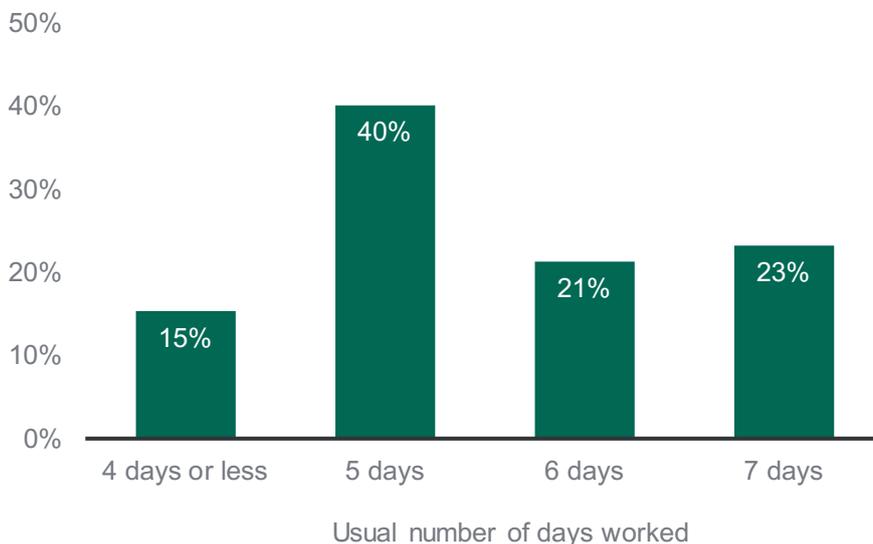
What are drivers’ working patterns?

The proportion of self-employed drivers (83%) and the proportion of part-time drivers (22%) have been broadly stable over the last ten years.



In October to December 2020, 23% of drivers usually worked 7 days a week, back to the levels seen prior to the first national lockdown in 2020 where the proportion of drivers working 7 days a week dropped to 9%. The majority of drivers (40%) usually worked 5 days a week.

Chart 11: Profile of usual number of days worked by “Taxi and cab drivers and chauffeurs”, England, October to December 2020 (Labour Force Survey)



Taxi passengers

The National Travel Survey (NTS) gathers data on personal travel behaviour across England. Data from the NTS can be used to analyse the users of taxis and PHVs. Note that data collected on specific travel by taxi/PHV cannot identify which type of service was used or if app-based technology was used to hail/book.

In 2019, the average person in England made 11 taxi or PHV trips and travelled 59 miles by taxi or PHV, which is an increase from 10 trips and a decrease from 62 miles in 2018. The distance travelled by taxi or PHV has increased by 10% over the last 10 years (from 54 miles in 2009), but the number of trips has remained broadly stable. The average taxi trip in 2019 lasted 20 minutes, the same as in 2018.

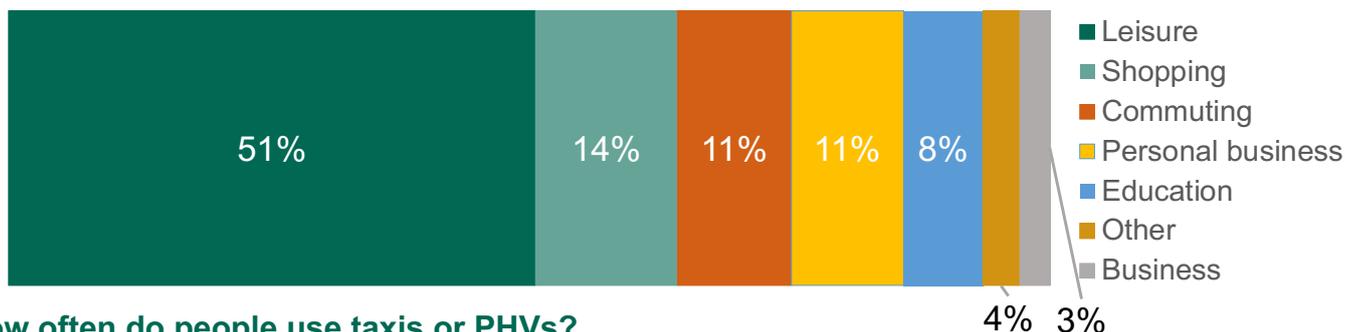
National Travel Survey

The National Travel Survey is a household survey carried out on around 15,000 individuals in England every year. The results in this release are based on the 2019 results, and as such do not reflect the changes in travel patterns from the pandemic. For more information see [here](#).

Why do people travel by taxi or PHV?

Over half (51%) of trips on taxis or PHVs were taken for leisure purposes, a small increase on 2018 (47%). The second most common trip purpose when using a taxi was shopping (14% of trips).

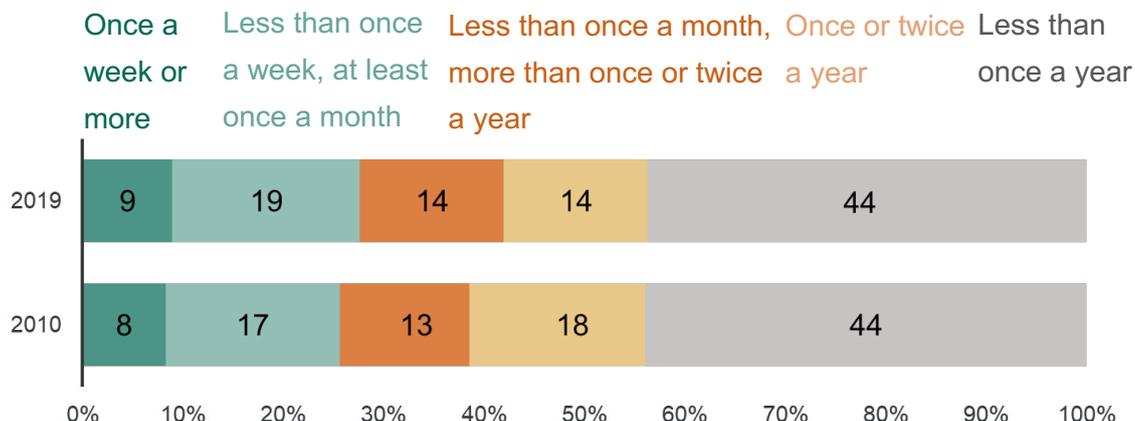
Chart 12: Purpose share of taxi or PHV trips, 2019 ([NTS0409](#))



How often do people use taxis or PHVs?

Most people (58%) rarely use a taxi or PHV (at most twice a year). However around a quarter (28%) travel by taxi or PHV at least once a month and 9% of people travel by taxi or PHV on a weekly basis. This has been broadly stable since 2010.

Chart 13: Frequency of taxi or PHV usage, England, 2010 and 2019 ([NTS0313](#))



Who uses taxis?

Mobility difficulties

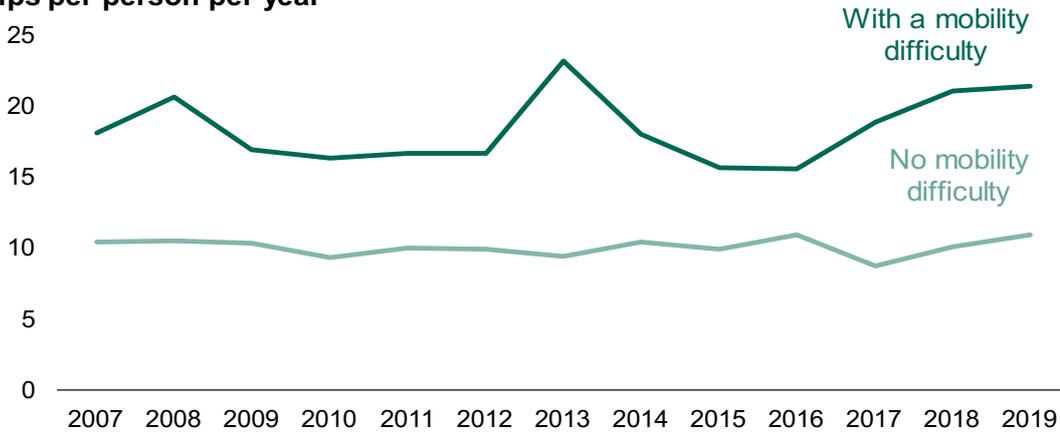
In 2019, the number of taxi or PHV trips made by adults aged 16 or over with mobility difficulties has increased from 16 trips per person per year in 2010 to 21 trips per person per year. Similar to last year, adults with mobility difficulties use taxis or PHVs more than people without mobility difficulties (21 trips per person vs. 11 trips per person).

Taxi or PHV usage makes up 3% of all trips for those with mobility difficulties, compared to just 1% for those without mobility difficulties. These figures have remained broadly stable since 2010.

Chart 14: Taxi or PHV trips per person per year, by mobility difficulty, England, 2019

([NTS0709](#))

Trips per person per year



Mobility difficulties

The NTS definition of having a mobility difficulty is based on those adults who responded to say they have difficulties travelling on foot, by bus or both.

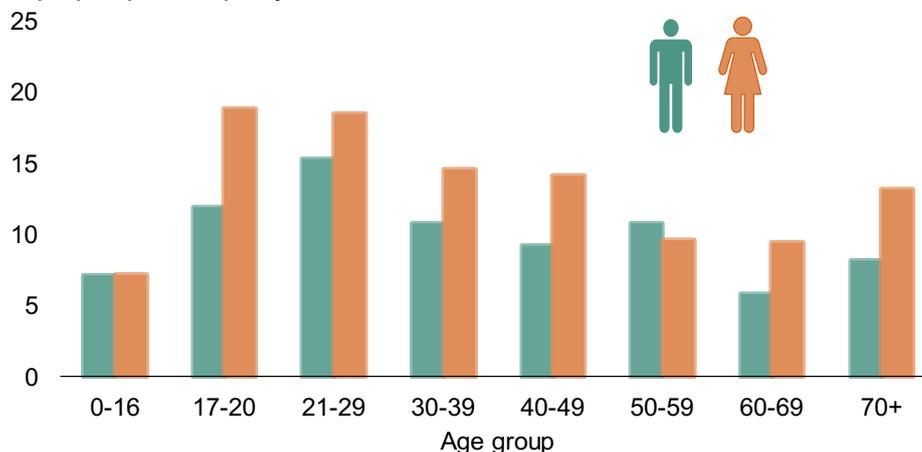
Age and gender

In 2019, on average, women made more taxi or PHV trips than men (12 trips per person per year compared with 10 trips per person per year respectively). Women aged 70+ made 61% more trips than men of this age (13 trips per person per year compared with 8 trips per person per year respectively).

Although women make more taxi or PHV trips, both men and women travelled 59 miles per person by taxi or PHV in 2019.

Chart 15: Taxi or PHV trips per person per year, by gender, England, 2019 ([NTS0601](#))

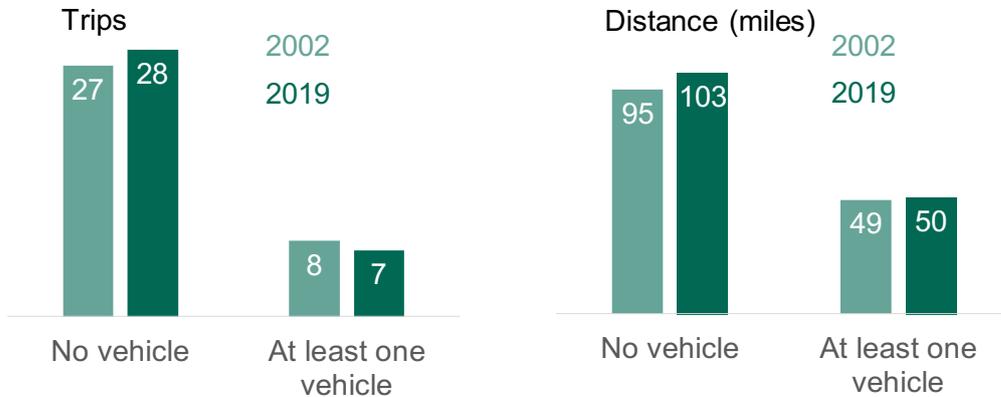
Trips per person per year



Car access

In 2019, on average, people in households without access to a car made 4 times as many taxi or PHV trips than those with access to a car (28 trips per person vs. 7 trips per person respectively), and travelled over twice as far (103 miles per person vs. 50 miles per person respectively). This pattern has remained broadly stable since 2002.

Chart 16: Taxi or PHV trips and distance travelled by taxi or PHV, England, 2019 ([NTS0702](#))



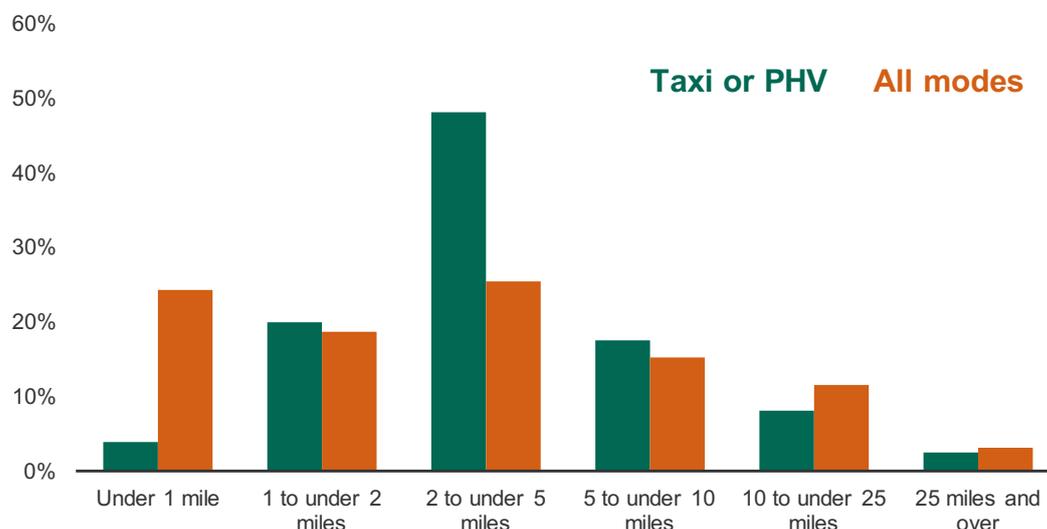
Household income

Similar to 2018, people in the lowest real household income quintile made 15 taxi or PHV trips, more than any other income quintile. However, those in the highest real household income level travelled further by taxi or PHV, on average 70 miles per person per year, while those in the lowest quintile travelled 69 miles per person per year.

How far are taxi or PHV trips?

In 2019, the majority (48%) of taxi or PHV trips were between 2 and 5 miles. This was almost double the proportion of trips of the same distance travelled by all modes (25%). In contrast, the majority (43%) of all trips were under 2 miles: just under a quarter (24%) of taxi or PHV trips were under 2 miles.

Chart 17: Trip length distribution, for taxi or PHV trips and all modes, England, 2019 ([NTS0308](#))

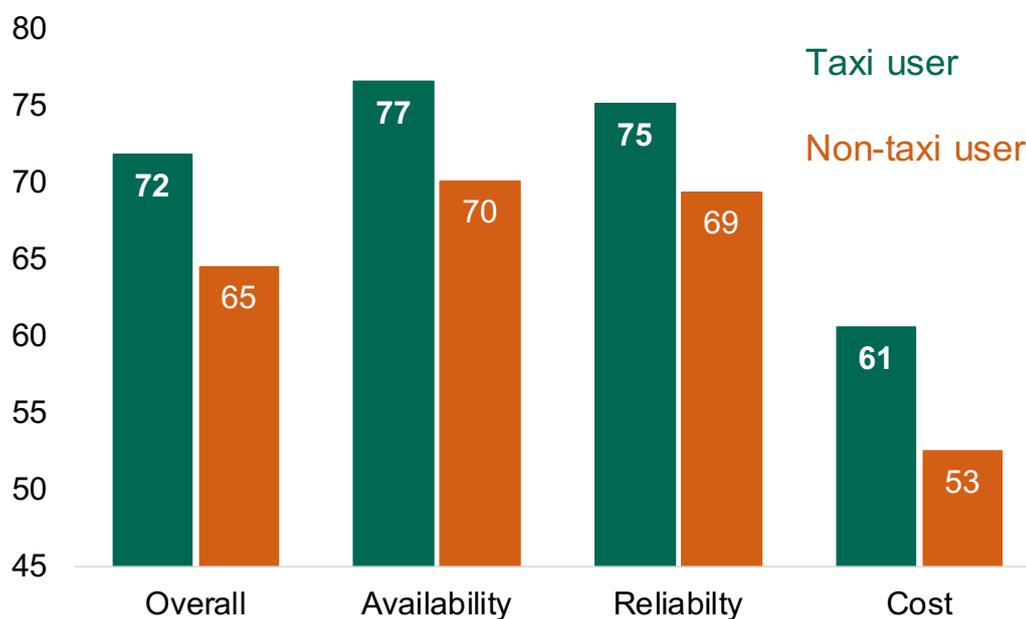


Passenger satisfaction with taxis and PHVs

The National Highways and Transport Public Satisfaction Survey collects public perspectives on, and satisfaction with, highway and transportation services on behalf of several local authorities to inform performance management and local transport plans.

On average, in the areas outside of London surveyed in England in 2020, the overall public satisfaction with taxis and PHVs was 66%, the same as in 2018 and 2019.

Chart 18: Satisfaction with elements of taxi/PHVs for taxi users (who use taxis/PHVs at least once a month) and non-users, England outside of London 2020



Overall satisfaction was 7 percentage points higher for those who use taxi/PHVs at least once a month (72%) compared to non-users (65%). This was reflected across other elements of satisfaction.

Of people who use a taxi/PHV at least once a month, 75% of those with a disability were satisfied compared to 71% of those without a disability.

The National Highways and Transport Public Satisfaction Survey

was launched in 2008. The survey is carried out in July-August of each year. The latest data available is for 2020 and covered 109 local authorities in England.

Detailed statistics

The data at LA level is captured through a randomly selected postal survey of households. However, because not all LAs participate the estimates may not be accurate at the national level.

We have excluded London from the analysis because the coverage in London is low.

The National Highways and Transport Survey results can be found [here](#).

These figures are not National Statistics.

Overall passenger satisfaction

66%

in England outside of London in 2020

Passenger satisfaction with reliability

71%

in England outside of London in 2020

Passenger satisfaction with availability

71%

in England outside of London in 2020

Passenger satisfaction with cost

55%

in England outside of London in 2020

Background information

Users and uses of these statistics

These statistics are used within DfT to inform the development and monitoring of policy relating to taxis and PHVs (for example monitoring how many taxis and PHVs are wheelchair accessible) and for ministerial briefing or to answer public enquires.

These statistics will also be used to monitor the implementation of the [Statutory Taxi & Private Hire Vehicle Standards](#) issued in July 2020.

Outside DfT, the statistics are of interest to various industry bodies and provide information for licensing authorities to compare themselves with other areas.

Strengths and weaknesses of the data

The data collected will cover PHV operators and enlisted drivers who use app-based technology, such as Uber. However, we are not able to disaggregate which drivers are using these apps in the figures presented.

More information can be found in the [Background Quality Report](#).

National Statistics

The continued designation of these statistics as National Statistics was [confirmed in February 2013](#). National Statistics are produced to high professional standards set out in the [National Statistics Code of Practice](#). They undergo regular quality assurance reviews to ensure they meet customer needs. For details of ministers and officials who receive pre-release access to these statistics up to 24 hours before release: <https://www.gov.uk/government/publications/taxis-statistics-pre-release-access-list>

Next Release

The next taxi and private hire vehicle statistics release is due to be published in 2022.



To hear more about DfT statistics publications as they are released please follow us on Twitter via our [@DfTstats](#) account. TWITTER, TWEET, RETWEET and the Twitter logo are trademarks of Twitter, Inc. or its affiliates

**Review of the Animal Welfare
(Breeding of Dogs) (Wales)
Regulations 2014**

**A report of recommendations to the
Welsh Government by the Wales Animal
Health and Welfare Framework Group**

December 2019

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Part 1. Executive Summary and Key Recommendations

In October 2019 the Minister for Energy Environment and Rural Affairs, Lesley Griffiths AM, announced that a review of The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, would be undertaken by members of the Wales Animal Health and Welfare Framework Group (WAHWFG). The WAHWFG appointed a Task and Finish Group to complete this review.

In this report, the Group has reviewed and made recommendations on the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, in the context of promoting high welfare standards. The scope of the review has been to consider the existing provisions for dog breeding in Wales, including legislation, guidance and its enforcement, as well as to consider whether any additional provisions are necessary.

The review has been based on evidence provided by a broad spectrum of relevant stakeholders including local authorities, veterinary surgeons in a variety of roles, representatives of the animal welfare and dog breeding sectors, and dog owners.

The role, scale and nature of the dog breeding industry in Wales have been considered within the context of the UK cycle of demand and supply of dogs. There are 260 dog breeding licences in operation in Wales, three of which are licensed for more than 100 breeding bitches. It is estimated that these licensed breeding establishments produce around 16,000-25,000 puppies per year, which is 2-3% of the estimated 750,000 dogs required to maintain the UK dog population annually, or 20%-50% of the estimated 50,000-75,000 puppies bred in Wales annually. The remainder of this large requirement for dogs in the UK is met by legally unlicensed breeders (those who breed one or two litters per year), illegally unlicensed breeders (those who breed more than two litters per year but do not hold a licence), and other sources such as third party sales, importation of dogs, and re-homing organisations.

The objectives of a robust legislative and enforcement system are that breeding dogs and puppies should experience a good quality of life whilst in breeding establishments, and that the puppies produced should have the ability to adapt to a home environment and live a good quality of life in the future. The consequences for inadequately socialised puppies include an increased risk of developing undesirable behaviours and being re-homed or euthanised in the future.

The Group found that the current combination of regulation, licensing conditions, guidelines and implementation are not meeting the objectives described above and have therefore made recommendations for improvements.

Key Recommendations

- 1. Further training** is necessary, in the physical, socialisation and enrichment aspects of good animal welfare in dog breeding establishments, to enable effective enforcement of the existing provisions. Specific training is recommended for local authority licensing inspectors, inspecting veterinary surgeons and private veterinary surgeons dealing with licensed breeding establishments. The role of the private veterinary surgeon, and that of the inspecting veterinary surgeon, should be clearly separated. Knowledge and resources could be distributed more widely through the creation of shared panels of expertise, for both local authority inspectors and appointed veterinary inspectors, who could operate throughout Wales. Private veterinary surgeons named on licences should undergo specific training including breeding establishment **health and welfare planning**.
- 2. Improved traceability** of dogs is necessary to allow enforcement of the existing legislation. **Registration** for all dog breeders should be considered. A combined system of licensing for those above the threshold of two litters, and basic registration for all other breeders, would assist in the identification of the suspected large number of illegally unlicensed dog breeders (those breeding more than two litters in twelve months). An effective registration system would require the creation of a Wales Database of Dog Breeders, in conjunction with a requirement for a valid breeder registration number to be displayed on any advertising of dogs for sale. **Compliance with microchipping legislation is currently poor**. Greater compliance could be achieved through collaboration with microchip database providers to detect dogs whose microchips are first registered by someone who is not the breeder.
- 3. A minimum ratio of one staff member to twenty adult dogs is insufficient and does not allow for provision of the exercise, enrichment and socialisation programmes** necessary to ensure good dog welfare. A different minimum ratio, such as one staff member to ten adult dogs, should be considered. It is estimated that this ratio would allow for one hour of socialisation and enrichment per litter per day based on an average of three litters present per twenty dogs. Further investigation is also required to determine whether there would be an animal welfare benefit to capping the number of dogs housed at a single breeding establishment.
- 4. Urgent consideration and review of other legislation** that impacts upon the production of dogs from all breeding establishments should be undertaken. The Group supports a **ban of third-party sales of dogs** and calls for **immediate improvements to the microchipping regulations** in order to increase compliance with this legislation.

Part 2. Introduction

2.1 Reasons for the review

In a written statement on 9th October 2019¹ the Minister for Energy Environment and Rural Affairs, Lesley Griffiths AM, announced an “urgent and immediate” review of The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, to be undertaken by the Wales Animal Health and Welfare Framework Group (WAHWFG)², by the end of December 2019.

The Wales Animal Health and Welfare Framework Group was established in 2014 by the then Minister of Natural Resources and Food to support the implementation of the newly launched Wales Animal Health and Welfare Framework. The Framework is a ten- year overarching plan for making improvements in standards of animal health and welfare in Wales, whilst also helping to protect public health and contributing to the economy and the environment.

The Framework sets out five strategic outcomes:

- Wales has healthy productive animals
- Animals in Wales have a good quality of life
- People trust and have confidence in the way food is produced and the way public health is protected
- Wales has a thriving rural economy
- Wales has a high quality environment

The Framework Group appointed three of its members to form a Task and Finish Group to undertake the review: Sarah Carr (Chairman), Les Eckford and Ifan Lloyd with the Office of the Chief Veterinary Officer providing secretariat support.

This review has been requested for several reasons. In Wales, England and Scotland, there has been legislation in place for the regulation of commercial dog breeding since the Breeding of Dogs Act 1973 (BDA 1973) came into place. This act aimed to “regulate the commercial breeding of dogs; to provide for inspection of premises at which dogs are bred and for control over the transportation of puppies; and for purposes connected with those matters”.

In Wales, The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 revoked and replaced the 1973 legislation, introducing stricter criteria for breeding establishments and establishing a minimum attendant to adult dog ratio of one full time member of staff to 20 adult dogs. These regulations were the first of their kind in the UK and, whilst many welfare organisations and charities had differing views on their content, were widely welcomed.

1. <https://gov.wales/written-statement-dog-breeding-wales>

2. <https://gov.wales/wales-animal-health-and-welfare-framework-group/terms-reference>

Following a full year of implementation of the regulations, a survey to capture data on the staff to dog ratio and other information on dog breeding was conducted by Local Authorities (LAs) as part of the Partnership Delivery Project with the Welsh Government. The information gathered highlighted some challenges in respect to LA enforcement and resourcing capabilities.

“During the development of the Breeding Regulations, data received from the Kennel Club estimated there would be approximately 500 new small scale dog breeders (three or four breeding bitches) that would require a licence in Wales. The information provided by LAs indicates less than five breeders with three or four breeding bitches have been licensed under the new Regulations. Whilst it is not a statutory requirement for LAs to search for eligible breeders, they do make every effort to do so when resource allows.”

Results from the One Year Local Authority Survey

Some concerns about standards at licensed premises were also highlighted by responses to the Welsh Government’s consultation “Third Party Sales of Puppies and Kittens” which was opened in February 2019.

“A key challenge of the current breeding and selling of dogs in Wales is the lack of traceability in the system because so many people selling puppies are outside of the current licensing system, which is why we advocate for an all encompassing registration and licensing system. The inability of local authorities to properly inspect licensed breeding establishments because of a lack of resources and limited training compounds the issues of poor welfare breeding and allows unscrupulous sellers to make profit from selling unhealthy puppies. These puppies can also be poorly socialised and habituated because the staff to dog ratio is set too high which can prevent breeders from dedicating enough time to the social development of each puppy. The continued abuse of the Pet Travel Scheme also enables low welfare and often ill puppies to be sold to unsuspecting members of the public. All of these issues, among several others, must be addressed in conjunction with a ban on third party sales for the welfare of puppies to be properly protected during breeding and sale”.

Dogs Trust response to the Third-Party Sales of Puppies and Kittens Consultation

It is also now five years since The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 came in to force, enough time for the regulations and their enforcement processes to have bedded in and therefore a good time to review and objectively assess the outcomes of these regulations.

2.2 Purpose and Approach of the Review

The Task and Finish Group set out to review and make recommendations on the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, with a view to promoting welfare

provision for breeding dogs and their offspring in Wales, and to produce a report on the findings of this review.

The aims of the review were to consider and report on the existing provisions and whether amendments to these are necessary to improve welfare of breeding dogs in Wales, as well as to consider whether any additional provisions are necessary.

The review encompassed both the physical and behavioural aspects of welfare associated with the breeding and sale of dogs. Due to the unique position that dogs hold in human society, which requires them to become safe family pets, the behavioural aspects of welfare, including adequate socialisation provision, are particularly important when assessing their welfare as a species. It must be remembered that the negative dog behaviour outcomes associated with poor welfare in breeding animals and puppies, carry a human safety risk as well as a risk to animal welfare.

This report describes the findings of the Task and Finish Group's review of the existing provisions, before making recommendations for amendments to the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014. The report also makes additional recommendations that the Group feels are relevant to this review. This report will be submitted to the Minister for Environment, Energy and Rural Affairs and to the Chief Veterinary Officer.

The approach of the review was to be objective, based on evidence, and outcomes focussed. The review process was collaborative and engaged many stakeholders. The Group began the process by identifying which stakeholder groups would be relevant to the review.

The Group consulted with Local Authorities, vets performing an inspection role, vets performing the role of the private veterinary surgeon, animal welfare sector groups and organisations, representatives of the dog breeding sector, and puppy purchasers. This engagement took place in several ways. Local Authorities, vets and animal welfare organisations were met through face to face or teleconference meetings. LAs and puppy purchasers who owned a puppy less than one year old were surveyed using two questionnaires designed by the Group. Everyone who engaged with the Group was also invited to submit any further written evidence that they felt may be relevant to the review.

The first stage of the review process was to gather evidence from all the above sources. The second stage was to analyse all the evidence and produce recommendations. The third stage was to document this analysis and these recommendations into a report.

2.3 Terminology

The term **Regulations** refers to the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.

The term **Licensed Breeder** refers to a breeder licensed according to the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.

The terms **Qualifying Conditions** and **Licence Conditions** refer to the conditions that must be met in order to have an application considered to become a licensed breeder, and those that must then be met to become a licensed breeder, respectively, according to the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.

The term **Guidance** refers to information provided to LAs to assist them when considering or carrying out any function pursuant to the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 (the “Regulations”).

The abbreviation **LA/LAs** refers to Local Authority/Local Authorities. **Recommendations** have been made by the group throughout this report and will be denoted by the letter R followed by the number of the recommendation, e.g. R2.

Part 3. Background

3.1 The Welsh dog population

Exact figures of dog ownership in Wales are not known though data from microchip registrations may, in time, provide better estimates than those currently used.

At present various organisations carry out annual surveys on dog ownership and give estimates of around 9 million dogs in the UK.³ In Wales the estimated dog population is 650,000 animals living in 440,000 households. These UK wide surveys have indicated an increase in dogs in the last few years, with one indicating more households with children now having a dog.⁴

While there is breed and individual variation, the average lifespan of 12 years for dogs means that each year 54,000 replacement puppies are needed to maintain the existing dog population in Wales. This compares with 750,000 annual replacements required for the whole of the UK. The Kennel Club registers 25,000 Welsh puppies each year and estimates this to be a quarter to one third of the total number of puppies bred in Wales. Of the puppies bred in Wales, some will leave to go to homes in other parts of the UK or further afield. Conversely, a proportion of the puppies entering the Welsh dog population will have been bred outside of Wales.

These 54,000 replacement dogs will originate from a variety of sources, including licensed UK breeders, legally unlicensed UK breeders (those with 1 or 2 breeding bitches), illegally unlicensed UK breeders (those with 3 or more breeding bitches), as well as from breeders and rescue organisations that are importing dogs from outside of the UK.

There are 260 licensed breeders across the 22 Local Authority areas of Wales. The number of puppies produced by these licensed breeding establishments is not accurately known. However, we can estimate from data provided to the Group by Local Authorities, that there is a current breeding bitch population of 4,000-5,500 dogs in licensed establishments in Wales. If we take the lower end of this estimate of 4,000, and make a conservative estimate that each one produces a litter of 4 puppies per year, then there are at least 16,000 puppies produced annually from licensed establishments in Wales. This number rises to 25,000, if we estimate that 5,000 breeding bitches each produce a larger litter of 5 puppies per year.

The Kennel Club registers 280,000 pedigree puppies in the UK each year out of the estimated 750,000 replacements for the UK dog population. This suggests that there are also around 470,000 crossbred animals and unregistered pure breeds produced annually.

Rehomed and rescued dogs make up another source that accounts for 60-70,000 animals⁵.

³ Paws report 2019 9.9 million dogs, Statista survey 2019 9 million, PFMA survey 2019 8.9 million dogs.

⁴ PFMA survey 2018 11% increase 2017-2018

⁵ RSCPA Sold a pup? Puppy Trade Report 2016

3.2 Previous legislation

Prior to the introduction of the Animal Welfare Act 2006, legal control on dog breeding was provided by The Breeding of Dogs Act 1973 (BDA 1973) which applied to England, Scotland and Wales. This required a person with five or more breeding bitches, or selling puppies from two or more litters, to be licensed. Initial inspections were carried out by a LA inspector together with an appointed veterinary surgeon, in order to check that the requirements of Section 1(4) of the Act were met. These requirements included housing facilities (construction, space allowance, exercise areas, temperature, lighting, ventilation and cleanliness), the provision of suitable food, drink and bedding material, and the need to be exercised during transportation. Breeding bitches were required to be at least one year old at mating, to produce no more than one litter each year, and no more than six litters in total. Accurate records demonstrating that requirements were being met had to be kept. There was no requirement for exercise periods at the breeding premises nor for socialisation, enhancement or enrichment programmes for puppies.

An amendment Act in 1991 extended powers to inspect unlicensed premises (under magistrate's warrant) where there was suspicion that dog breeding was being carried out. Subsequently the 1999 Breeding and Sale of Dogs (Welfare) Act defined the ways that dogs (under 8wks old) could be sold from the breeding premises, either direct to the purchaser or to a licensed pet shop, and the need for a collar and identity tag stating the premises of birth if sold to a pet shop.

The form of records to be kept were prescribed in subordinate regulations made in 1999⁶ including details of the mating, puppies produced, and their destinations.

The introduction of the Animal Welfare Act 2006 in March 2007 and the devolution of animal health and welfare powers provided an opportunity to review and change the legislation around dog breeding in Wales. Using the principle of the five welfare needs under section 9 of the Act, Welsh Government proposed new regulations that would better address the welfare provisions for dog breeding.

The significant changes from the BDA 1973 were:

1. a reduced licensing threshold of keeping 3 or more breeding bitches and breeding, advertising or supplying puppies from 3 or more litters.
2. a ratio of one full time attendant to no more than 20 adult dogs
3. the need for approved socialisation and enhancement/ enrichment plans
4. a puppy record detailing health status in addition to the basic identification data that had been part of the 1999 Regulations, and similar details on the dam and sire.

A component of the new controls was traceability of puppies so that health issues identified in puppies that had left the breeding premises could be investigated. Microchipping of puppies before leaving the breeding premises had been considered but was introduced under separate legislation applying to all dogs from 2015.

Guidance was issued to LAs on how the legislation should be implemented and included details on kennel accommodation and environment, diet and nutrition, dog behaviour and health and welfare.

⁶ The Breeding of Dogs (licensing Records) Regulations 1999 (S.I 1999 No 3192)

3.3 Other dog breeding controls

Regulations introduced in England in 2018 brought dog breeding activity under LA licensing legislation⁷ and repealed The Breeding of Dogs Act as applied in England. The threshold for licensing is where 3 or more litters of puppies are bred, and puppies are sold or where the breeding of dogs is advertised as a business of selling dogs.

Under schedules in the regulations, general requirements are set out following generally the provisions of Section 9 of the Animal Welfare Act followed by specific requirements for dog breeding. Notable requirements include adequate competent staffing levels, monitoring the behaviour of animals, knowledge of normal behaviour, provision for exercise and registration with a veterinarian.

Schedule (3) covers information and advice that must be given to prospective purchasers of dogs and a prohibition on puppies being sold under 8 weeks old.

The detailed Schedule (6) for dog breeding includes amongst others the need to be able to demonstrate a socialisation and habituation programme for puppies, dogs having specific exercise periods, no breeding from dogs where this is likely to give rise to welfare issues for the dog or its offspring, a responsibility to make arrangements to rehome dogs no longer needed for breeding and the implementation of a preventative health care plan agreed with the veterinarian.

Guidance was issued by Defra for LAs in November 2018 detailing how the requirements of the regulations might be met and advising on suitable higher standards of operation that would contribute to operators having licences lasting up to 3 years. A star rating protocol is used to assess this. An example relates to the number of caesarean sections a bitch can have before she is no longer to be bred from. The basic conditions allow up to two surgeries, the higher standard just one. Higher standard premises will have a staff to dog ratio of 1:10 while standard condition premises may have a ratio of 1:20.

3.4 Voluntary breeding schemes

Kennel Club Assured Breeder Scheme

This voluntary scheme (UKAS accredited) operates alongside LA licensing and is utilised by many small breeders who only have 1 or 2 bitches.

Of the over 4000 Assured Breeders in the scheme, 165 are based in Wales. Higher standards are expected: bitches can only produce 4 litters in their breeding life while in the scheme. All offspring are registered with the Kennel Club. Use of relevant health screening schemes is expected.

Sales of puppies from assured breeding premises must be direct to purchasers; puppies should be well socialised and further guidance on socialisation should be given after puppies have been inspected by suitable purchasers at the breeding premises. Assured Breeders are expected to provide necessary advice after sale and be prepared to help rehome a dog they have bred should this be necessary. Purchasers are given extensive background information on the puppies- The Puppy Pack.

⁷ The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Scottish Society for the Prevention of Cruelty to Animals Assured Puppy Breeder Scheme

Launched in November 2019, this scheme is free to breeders in Scotland including those already in the Kennel Club Assured Breeders scheme. It covers breeders of cross bred as well as pedigree animals. Pre-mating health checks are required to screen for inherited diseases though the scheme has facilitated discounts on the testing, using the Canine Health Schemes for hip and elbow conditions. Annual inspections are to be carried out.

Carmarthenshire Buy with Confidence Scheme

This new scheme is currently in the process of being launched by Carmarthenshire LA, with eighteen breeders ready to enter the scheme.

Part 4. Examination of the Current Legislation

Development of the current legislation followed on from studies carried out under the Companion Animal Welfare Enhancement Scheme (CAWES), funded by Welsh Government in 2008 to allow LAs to investigate specific welfare areas in companion animals. Studies carried out by Pembrokeshire, Ceredigion and Carmarthenshire highlighted concerns around commercial puppy breeding in terms of scale of activity in certain regions and the controls available. These concerns extended to both unregulated, commercial dog breeding activities and the standards applied within the regulated sector. This information had come from several sources including LAs, third sector organisations, the general public, Members of the Welsh Assembly and Members of Parliament.

A review was commissioned by Pembrokeshire LA of current practices in dog breeding establishments under the existing licensing conditions (BDA 1973 and amendments). Produced by an eminent clinical animal behaviourist, the review examined whether licensing conditions and practices provided suitable welfare standards for breeding dogs and their puppies, meeting the requirements of the Animal Welfare Act 2006. Through many practical recommendations the review indicated significant improvement was needed to the licensing conditions applied to breeding establishments.

A Task and Finish group was established in November 2009 to examine evidence identified in these reports. The group membership included a wide range of organisations, met several times between January and June 2010 and produced recommendations to Welsh Government in three main areas of legislative control on dog breeding. These were changes to qualifying conditions for licensing, changes to licensing conditions and new guidance for LAs to accompany legislation.

4.1 Qualifying conditions for licensing

These set the scope of activities that would be subject to control, covering the number of breeding animals and activities around the sale of dogs and puppies. Applicants for a licence also had to be free of disqualifications under certain animal welfare and associated legislation.

Under the previous legislation the threshold for licensing was the keeping of 5 breeding bitches and sales of dogs. LAs had been using Chartered Institute for Environmental Health (CIEH) guidance on what constituted eligibility. The Task and Finish group debated various definitions to adequately encompass commercial dog breeding with a range of potential exemptions. There were suggestions that all dog breeding should be at least registered with LA, though this was not considered practically enforceable by LAs. Discussion around the scale of operation considered various views, concluding that the previous licensing threshold should be reduced. It was decided that licensing should be required when keeping 3 breeding bitches, producing 2 litters per year, advertising and selling 10 or more puppies, advertising or establishing a business involved in dog breeding, or operating a family business including the sale of puppies in the business activity.

The idea that the sale of 10 puppies represented a level of activity that required licensing was modified because of the huge breed variation in the average number of pups born per pregnancy. The recommended litter threshold for licensing, of two litters per year, was increased to three litters in the current Regulations of 2014.

4.2 Licence Conditions

LAs must attach to each licence issued, the seven Licence Conditions set out in Schedule 1 of the Regulations. These conditions exist to safeguard the welfare of dogs and puppies in licensed premises according to the principles of section 9 of the Animal Welfare Act (the five welfare needs of animals). LAs must also specify two further conditions set out in Regulation 8 (2): the maximum number of adult dogs and puppies to be kept at the premises, and a staff to adult dog ratio that must in no case exceed 1 staff member to 20 dogs. In addition, LAs have the power to add further conditions to each licence that they consider necessary.

Guidance to LAs and to vets involved with licensing had been produced several times since 1976 and was used by LAs in Wales. The British Veterinary Association (BVA) had produced guidance in 1978 and in 1998. Following amendments to the 1973 Act a review of the guidance was undertaken in 1996. The latest version of the guidance relating to the requirements of the 1973 Act and the amending Acts was issued in 2014 by CIEH⁸.

The Task and Finish group held discussions and consultations with interested parties. A recommendation from that group was that the CIEH guidance on licence conditions should be revised in line with the five welfare needs of section 9 of the Animal Welfare Act. This would support a suggested change to Welsh specific legislation made under the Animal Welfare Act.

The conditions that resulted from the introduction of the current regulations included many of those originally contained within the 1973 and subsequent Acts on dog breeding but with significant additions to reflect the need to meet the behavioural and socialisation welfare needs of dogs and puppies as well as their physical health and welfare. Provisions to allow normal behaviour of breeding dogs and adequate development of puppies were specified including exercise programmes, kennel layout, enhancement and enrichment programmes. Socialisation programmes (and habituation to novel situations) were also required for puppies.

Strengthened animal health provisions were specified including a recorded health and welfare plan, registration with a veterinary practice, and the keeping of additional records including puppy and breeding bitch records.

⁸ [CIEH Dog Breeding Guidance](#)

A new requirement of the licensing conditions was the introduction of a maximum staff to dog ratio to ensure the health and welfare needs of dogs and puppies could be met. The Independent Report into Dog breeding by Patrick Bateson, published in 2010, identified as major concerns inadequate provision of resources for puppies to develop socialisation and for puppies and bitches to have exercise and mental stimulation. A suitable staff to dog ratio was suggested to ensure adequate time was available to provide these. Various ratios were proposed, some organisations favouring a high staffing rate of one staff member per fifteen dogs (The Advisory Council on Welfare issues of Dog Breeding), while others, such as some breeders, favoured a much higher number of dogs per staff member.

Two consultations were undertaken, the first with the 1:20 ratio and the second with a different ratio of 1:30.

The responses indicated the original 1:20 figure was preferred and subsequently introduced into legislation. This was the minimum number of staff per dog and LAs could set higher staffing levels considering resources and facilities at breeding premises. In addition, each premises could have a maximum number of dogs and puppies that could be kept.

4.3 Guidance for Local Authorities

The guidance sets out the detail for the resources that are to be provided to meet the needs of dogs and puppies, based on the requirements of section 9 on the Animal Welfare Act 2006. These are grouped into environment and accommodation, diet and nutrition, normal behaviour and health and welfare. Specimen forms of records for the dog breeding records and the puppy logbook are included as schedules.

Guidance by Welsh Government was last issued in April 2018²⁸

Prior to the introduction of the 2014 Welsh Regulations, LAs had, in many cases, used the guidance contained in the CIEH document.

The Task and Finish group in 2010 proposed guidance based on that document but with additional reference to the requirements of the Animal Welfare Act. An important aspect in the development of guidance was the recognition that providing purely for the physical health of the dogs and puppies would not meet all the needs of the animals. Their mental wellbeing needed to be protected and enhanced. The addition of a socialisation plan for puppies and enhancement and enrichment programme for all dogs were considered important changes to previous licensing controls.

²⁸ <https://gov.wales/sites/default/files/publications/2018-04/dog-breeding-establishments-guidance-for-local-authorities.pdf>

Part 5. Examination of Current Implementation and Enforcement

5.1 Summary of Model Licence Conditions

Schedule 1 of the Regulations lists 7 conditions to be met in granting a licence. In addition there is a requirement in section 8 (2) to specify to further conditions: the maximum number of dogs and puppies to be held at a premises and the staff:dog ratio with a minimum of 1:20. These make up the 9 basic licence conditions, to which LAs may add any further conditions they consider appropriate, to create their **Model Licence Conditions** (MLCs). These are then applied by the LA to each licence but adapted according to the individual circumstances. For example, the type of dogs bred or facilities available may necessitate a ratio of more than 1 staff member per 20 dogs (but never less than 1 per 20).

Schedule 1 Licence Conditions:

'Condition 1: Enhancement and Enrichment

1. The licence holder must implement an enhancement and enrichment programme that has been approved by the local authority.

Condition 2: Socialisation

2. The licence holder must implement a socialisation programme that has been approved by the local authority.

Condition 3: Health

3. The licence holder must take all reasonable steps to protect dogs from pain, suffering, injury and disease.

Condition 4: Mating

4. The licence holder must ensure a breeding bitch— (a) is not mated until she is 12 months old; (b) does not give birth to more than 1 litter of puppies in a 12 month period; and (c) does not give birth to more than 6 litters of puppies in total.

Condition 5: Change of ownership of a puppy

5. The licence holder must retain ownership and possession of a puppy on the premises occupied by the licence holder until it is at least 56 days old.

Condition 6: Breeding bitch record requirements

6.—(1) The licence holder must maintain a written record in relation to each breeding bitch kept setting out her: (a) name; (b) date of birth; (c) breed; (d) physical description including colour and identifying features; (e) health status; (f) mating details including:

(i) in relation to the sire, the information required in sub-paragraph 1(a) to (e); (ii) in relation to each puppy born— (aa) date of birth; (bb) when ownership is transferred, the new owners name and address.

(2) When ownership of a breeding bitch is transferred the name, address and telephone number of the new owner must be recorded by the licence holder on the record referred to in sub-paragraph (1) and a copy of the record must be provided to the new owner and a copy retained by the licence holder.

(3) The record referred to in sub-paragraph (1) must be available for inspection and retained by the licence holder for the lifetime of the breeding bitch.

Condition 7: Puppy record requirements

7.—(1) The licence holder must maintain a written record confirming the following details in relation to each puppy which is on the premises occupied by the licence holder:

(a) sex;

(b) date of birth;'

There is significant variation in the number of additional conditions and the level of detail included in the licence conditions, between LAs. Most LAs use the published Guidance for their Model Licence Conditions, others have written their own.

Some authorities have guidance linked to each condition in the licence document as to what must be provided. Examples of some additional requirements are the need for an annual health check of adult dogs by a veterinary surgeon, or the inclusion of responsible breeding principles such as:

“15. (a) Any breeding stock which proves to exhibit unsound hereditary or behavioural characteristics must not be bred from.

15.(b) When intentionally breeding crossbreds, breeders must have due regard to the breeds' compatibility for ease of whelping and to produce healthy puppies”.

5.2 Licensing fees

LAs each set their own licensing fees for the licensing of dog breeding establishments.

These fees can be fully cost recoverable but must reflect the actual cost of issuing and enforcing the licensing scheme.

There is wide variation between LAs in the current licensing fees and the ways in which they are calculated²⁹

15 out of 22 LAs charge a flat rate licensing fee regardless of the scale of the operation; these range from £107 to £380.

6 out of 22 LAs charge a variable fee based on the scale of the operation. One LA has two different rates for “home” and “commercial” breeders.

Several LAs have two levels of fees, a higher fee for the initial application and licence, and a lower fee for renewal of the licence.

11 out of 22 LAs charge any veterinary costs incurred in addition to the licence fee.

The lowest annual licensing fee is £107, and the highest is £748 (which is for greater than 80 breeding bitches).

Many of the “flat rate” licence fees appear unlikely to fully recover the cost of processing the application, at least one annual inspection by the LA, and an annual inspection by a veterinary surgeon.

There appears to be a reluctance by LAs to increase the licensing fees, despite the fact many of them do not seem to cover the true costs of enforcement. This reluctance may in part be due to a fear that that increasing licensing fees could act as a deterrent to becoming licensed and consequentially lead to increased levels of illegally unlicensed breeding.

R33. The group recommends that there should be a standardised fee scale that is proportionate to the scale of establishment, and the time and resources required to process the application and inspect the premises. Within this standardised fee framework, individual LAs should be able to set their own figures to allow for regional differences in costs.

²⁹ Data collected by the RSPCA October 2019: licensing costs by Local Authority

5.3 Number of breeding establishment licences issued by region

There are 22 LAs in Wales.

20 out of 22 LAs provided data to the Group on implementation and enforcement of dog breeding licences within their area by responding to a questionnaire that was sent to all LAs.

Figures for the other 2 LAs were obtained from information provided to Welsh Government in 2019 (shown in italics).⁹

21 out of the 22 LAs in Wales have licenced Dog Breeding Establishments, the remaining LA has never had an application for a breeding establishment licence.

There are 260 dog breeding establishments currently licensed in Wales.

The greatest number of licences within a single LA is 77.

There are 7 LAs which have more than 10 licensed breeding establishments, the other 15 LAs have less than 10 licensed breeding establishments.

The 7 LAs with greater than 10 licensed establishments are

Carmarthenshire (77), Ceredigion (36), Neath Port Talbot (15), Powys (23), Wrexham (16), Swansea (15) and Flintshire (11).

Cardiff has the lowest number of licensed establishments per population density (three). Carmarthenshire has the highest number of licensed establishments per population density¹⁰.

9. Dog's trust website information.

10. Population figures from Welsh Government:
<https://statswales.gov.wales/Catalogue/Census/2011/UsualResidentPopulation-by-BroadAgeGroup-LocalAuthority>

5.4 Scale of licensed establishments: number of breeding bitches

Licences for 3 to 5 breeding bitches	24
Licences for 6 to 10 breeding bitches	89
<i>Licences for 3-9 breeding bitches</i>	<i>6</i>
Total (10 or less breeding bitches)	119
Licences for 11 to 20 breeding bitches	67
Licences for 21-30 breeding bitches	28
<i>Licences for 10-24 breeding bitches</i>	<i>3</i>
Total (11-30 breeding bitches)	98
Licences for 31-40 breeding bitches	22
Licences for 41-50 breeding bitches	8
Total (31 to 50 breeding bitches)	30
Licences for 51-100 breeding bitches	10
Licences for > 100 breeding bitches	3
Total (>50 breeding bitches)	13

The largest number of breeding bitches on a single licence was 145

5.5 Scale of licensed establishments: total number of dogs and puppies

Licences for 0-20 total dogs	54
Licences for 21-50 total dogs	128
Licences for 51-100 total dogs	41
Licences for 101-200 total dogs	13
Licences for 201-300 total dogs	1
Licences for 301-500 total dogs	1
Licences for > 500 total dogs	2

1 licence has been issued for “28 dogs and their associated litters”

There are 19 licenced establishments for which this data is unavailable.

The figures for number of licences per region and number breeding bitches per licence can be used to calculate an estimate for the number of breeding bitches in licensed establishments in Wales, and for the number of puppies they produce.

There are likely to be between 4,200 and 5,500 breeding bitches currently in licensed establishments in Wales.

Based on a conservative estimate of 4000 bitches each producing one litter per year of 4 puppies, it can be estimated that **licensed breeding establishments in Wales produce at least 16,000 puppies per year**, although this figure could be as high as 25,000.

5.6 LA inspections

20 out of 22 LAs provided data to the task and finish group, and 1 of these has issued no licences for dog breeding establishments.

17 out of 19 LAs that have issued licences have inspected all their dog breeding establishments in the past 12 months.

2 of these 19 have inspected all but 1 of their establishments in the past 12 months.

2 LAs specified that they inspect premises twice per year, including one unannounced inspection visit.

5.7 Veterinary inspections

13 out of 19 LAs know that **all** their licensed premises have received a veterinary inspection in the past 12 months

6 out of 19 do not know, or do not think, that **all** their licensed establishments have had veterinary inspection in the past 12 months

One of these 6 requests vaccination record cards to be presented (on the assumption that breeding animals with up to date vaccinations have received a veterinary examination in the past twelve months) and requests a veterinary certificate for any animals for whom the vaccination record is not available.

5.8 Number of licences refused or revoked since 2014

9 out of 19 LAs that have issued licences, have refused or revoked at least one licence since 2014

10 out of 19 have never refused or revoked a licence since 2014.

7 of those 10 who have never refused a licence have 5 or more breeding licences in operation in their area.

1 LA has refused 34 licences since 2018.

1 LA has refused or revoked 5 licences since 2014

6 LAs have refused or revoked 1 or 2 licences since 2014.

Part 6. Key Areas and Recommendations **for Improvements to the Current Provisions**

6.1 Are the current provisions (including Regulations, Licence Conditions and Guidance for LAs) fit for purpose?

The following discussion has been formulated through engagement of the Task and Finish Group with multiple stakeholders including animal welfare Non-Governmental Organisations (NGOs), LAs, private veterinary surgeons, inspecting veterinary surgeons, puppy purchasers and representatives of the dog breeding industry. There were multiple common themes running through these discussions, with many stakeholders in agreement on necessary areas for improvement and potential solutions.

The breeding of dogs in Wales primarily occurs to supply a large UK demand for family pet dogs. It is an industry, in that it exists in the most part for financial gain. This means that producing healthy, well socialised puppies is not always the primary motivation that drives dog breeding activities, creating the need for a robust legislative and enforcement system. When compared to other animal production industries, such as the meat, dairy and egg industries, dog breeding legislation appears less robust and more open to the exploitation of loopholes, because it does not currently apply to all dog breeding activities. The legislative and enforcement systems around the production of animals for food, have evolved in order to protect not just animal health and welfare, but also public health. They also protect those animals throughout their life cycle, from birth to death. In contrast, the dog breeding legislation does not afford the same degree of attention to public health and public safety, and the provisions currently in place do not guarantee protection of breeding animals beyond their breeding years for the rest of their life.

Effective dog breeding controls have two main animal welfare objectives:

1. The objective that all **dogs used for breeding** in Wales should have good health, and a good quality of life from birth until death.
2. The objective that all **puppies** bred in Wales should have good health and a good quality of life from birth until they leave the breeding premises. In **addition** to this, that they should receive adequate enrichment and socialisation during their time at the breeding premises, to enable them to adapt successfully to a home environment and become companion pets equipped with the social and behavioural skills to live a good quality of life in the future, with children and other dogs if required.

Dogs possess teeth and jaws capable of inflicting serious injuries to people, and other animals, and will use these features to defend themselves from a perceived threat if necessary. It is important to consider this fact when examining the welfare outcomes for inadequately socialised puppies.

The safety implications of this impact upon the ability of owners to overcome some of the undesirable dog behaviours associated with poor socialisation. Inadequately socialised puppies, with poor mental and behavioural welfare, are likely to develop undesirable behaviours that carry a high risk of the dog being either re-homed privately, re-homed through a rescue organisation, or euthanised.¹¹ Examples of these behaviours include aggression towards people or other dogs, inappropriate urination and defaecation, separation anxiety, continuous periods of barking, and destructive behaviour in the home. Many purchasers are not aware of the importance of buying a puppy that has received an adequate socialisation programme prior to sale, or the potential consequences of not doing so in terms of both animal welfare and human safety.

It is estimated that 130,000 dogs enter UK re-homing organisations annually, and UK wide research identified behaviour problems as the most common reason for dogs to be given up for rehoming.¹² Many of these dogs have complex behavioural issues meaning they require a longer, more costly rehabilitation process, and will have fewer suitable new homes available to them. Effective regulation of dog breeding, and its enforcement, is vital to ensure that a greater number of puppies are able to remain with their initial purchaser for life.

The Group found that all stakeholders agreed on the need for robust legislation and enforcement of the dog breeding industry, for the reasons outlined above. All agreed that the current combination of regulation, licensing conditions, guidance and implementation were not meeting the two objectives described above: that all breeding dogs and puppies have a good quality of life, and that all puppies are sufficiently socialised to become well-adjusted pets. It was therefore concluded that the current combination of regulation, guidance and enforcement required improvement.

The following discussion will consider the issues that have been identified and make recommendations for how these can be addressed.

¹¹ [Boyd et al Mortality resulting from undesirable behaviours in dogs under 3 years attending primary care veterinary practices in England](#)

¹² Dogs Trust website information

6.2 Issues identified with and recommendations for the Qualifying Conditions for licensing.

6.2 a) Qualifying Conditions issue 1: definition of in-scope dog breeding activities

Part 2, paragraph 5 of the regulations states the following qualifying conditions for a breeder to require licensing:

‘A person carries on the activity of dog breeding for the purposes of section 13(1) of the Act if that person

*-keeps on premises 3 or more breeding bitches **and**—*

-breeds on those premises 3 or more litters of puppies in any 12-month period;

-advertises for sale from those premises a puppy or puppies born from 3 or more litters of puppies for sale in any 12-month period;

*-supplies from those premises a puppy or puppies born from 3 or more litters of puppies in any 12-month period; **or***

-advertises a business of breeding or selling puppies from those premises.

(2) For the purposes of paragraph (1) any dog found on premises will be presumed to be kept by the occupier of those premises until the contrary is proved.

(3) For the purposes of paragraph (1)(a) to (c) it is immaterial whether or not the litters of puppies are bred from the breeding bitches referred to in paragraph (1).’

The above paragraph contains several ambiguities and potential loopholes:

the wording, punctuation and use of “and” could be interpreted as meaning that the first four of the above criteria must be met in order for a breeder to require licensing, suggesting that a breeder who was above the licensing threshold of three or more litters in a year but did not fulfil some of the other criteria, may not require a licence.

The use of “supplies from those premises” suggests a breeder could breed 3 or more litters, but supply them from different premises, and not require a licence.

The use of “keeps on premises” and “breeds on premises” indicates that the licence is attached to a single premises rather than to an individual. This suggests that an individual owner or keeper could keep 2 breeding bitches at each of multiple premises and still not require licensing.

A significant loophole is that any number of persons living or working at the same site could breed two litters each and run a breeding establishment between them whilst each remaining below the licensing threshold. There are potentially a large number of commercial, yet “legally unlicensed” breeding operations taking advantage of this.

The Group is also aware of the existence of breeding contracts, where a breeder sells a puppy with a legal contract stating that the purchaser must produce a litter of offspring from that animal and that the vendor retains ownership of the future litter. Such contracts can be used by breeders to avoid the licensing threshold by not retaining ownership of the breeding animals and should be taken into account when considering the scope and wording of the legislation.

R1. The qualifying conditions for licensing should apply to any individual breeding 3 or more litters per year, who is selling any of the puppies from those litters. This should apply regardless of whether sales from those litters or the business are being advertised. It should also apply regardless of whether the breeding animals are kept at the same or different premises.

The qualifying conditions in part 2, paragraph 5, could therefore be re-worded as:

'A person carries on the activity of dog breeding for the purposes of section 13(1) of the Act if that person
-keeps 3 or more breeding bitches and—
-sells or advertises for sale any puppy or puppies born from 3 or more litters of puppies in any 12 month period.'

R2. The breeding licence should apply to the individual, and not the premises. Therefore, any individual owner or keeper breeding greater than 3 litters in 12 months should require a licence, even if the breeding bitches are at three different premises.

R3. The licensing threshold should apply to premises as well as individuals, so that the activity of breeding three or more litters on the same premises in 12 months would require a licence even if owned by different people.

6.2 b) Qualifying Conditions issue 2: scale of breeding operation required to be in scope.

The current regulations only apply to those who breed 3 or more litters of puppies in a 12-month period.

Breeders can be divided in to three categories:

- Licensed breeder, i.e. those who meet the criteria for licensing
- Legally unlicensed, i.e. those who breed less than 3 litters from less than 3 breeding bitches in 12 months
- Illegally unlicensed, i.e. those who are breeding more than 3 litters in 12 months but have not applied for a licence, or have had one refused

Issues of dog welfare, as identified by stakeholders, exist within all three of the above categories.

Whilst it is recognised that a large number of illegally unlicensed breeders exist, the scale of this activity is difficult to estimate. The Kennel Club estimate, from puppy registration figures, that there should be 900-1000 licensed breeding establishments within Wales, suggesting that the 260 establishments that are currently licensed may only represent only 25% of those who meet the criteria. This suggests that 75% of breeders who meet the criteria are failing to comply with the regulations; a concerning figure. The estimated 16,000-25,000 puppies produced by licensed breeding establishments in Wales (figures derived from LA data), accounts for less than half of the 50,000-75,000 puppies that the Kennel Club estimates are likely to be produced annually in Wales, from both legally and illegally unlicensed breeders.

Currently some LAs are very pro-active in trying to identify illegally unlicensed breeders. This is a time consuming and resource-heavy process and is not being applied consistently across all LAs. Known links exist between illegal dog breeding and the activity of criminal gangs in Wales.¹³ The large, unrecorded volumes of cash that can change hands through sales of puppies make the dog breeding industry attractive to criminals. The Proceeds of Crime Act 2002¹⁴, which allows LAs to re-invest Proceeds of Crime seized following successful prosecution cases, has great potential in helping to fund future prosecution cases which in turn could provide additional Proceeds of Crime. This approach has already been adopted successfully by some LAs in Wales.

Most stakeholders agree that it is a priority to try and identify the illegally unlicensed category of breeder. Apart from the criminal element of this activity, there is great potential for risk to animal health and welfare, given the large number of puppies likely to be bred in the estimated 75% of in-scope breeding establishments that currently operate beneath the radar of any scrutiny by LAs. The majority of stakeholders agree that some type of legal recognition of all forms of dog breeding enterprise would be beneficial in helping to identify illegally unlicensed breeders. Stakeholders opinions vary as to how best this could be achieved.

Options include:

- Licensing of all dog breeders, regardless of the scale of the breeding operation.
- A two-tier system, with licensing for 3 or more litters within 12 months, combined with a registration scheme for all other litters.
- Licensing of all breeders that sell puppies for financial gain, regardless of the scale of the operation.

It is recognised that any type of registration or wider licensing scheme will place additional pressure for resourcing on already stretched LAs, unless adequate funding is made available.

¹³Verbal evidence provided by Local Authority stakeholder representatives

¹⁴<http://www.legislation.gov.uk/ukpga/2002/29/contents>

A registration system would allow easier identification of illegal breeding operations, and therefore enable increased enforcement of the regulations. It may also provide positive recognition for smaller breeders, as well as consumer confidence that registered breeders may be less likely to be engaged in criminal or low welfare activities. The current system makes it very difficult for a puppy purchaser to recognise the difference between a legally or illegally unlicensed breeder. Many of the best welfare conditions for the breeding of dogs occur in low volume, home breeding situations with an owner who may wish to have one or two litters from a well looked after, well socialised, pet dog. There is therefore a legitimate argument that full licensing of all breeders, regardless of size, could deter the best small-scale breeders from continuing. This reduction of supply in the face of ongoing demand for puppies could inadvertently lead to an increase in the sourcing of dogs from lower welfare situations including large-scale licensed breeding establishments, illegally unlicensed establishments, or those imported from overseas. Any future registration system would only be effective if it was implemented alongside measures to improve traceability of breeding animals and litters through effective implementation of microchipping legislation and co-operation of the microchip database providers. Traceability and microchipping of dogs is discussed in more detail in Part 8.

R4. The licensable threshold of three or more litters in 12 months is considered by the Group to be acceptable if operated in conjunction with a wider registration system.

R5. Full licensing of all dog breeders, regardless of the scale of breeding operation, would require significant increase in LA resources to enable effective implementation. We therefore recommend that a combined system of licensing and registration, should be considered. The system should require registration for all breeders including those producing less than three litters in twelve months, combined with full licensing for those producing three or more litters in twelve months.

A registration scheme should be implemented in conjunction with the introduction of a legal requirement to display the breeder registration number on any form of puppy advertisement.

R6. A Wales Database of Dog Breeders

In order to aid implementation of a registration scheme, a Wales Database of Dog Breeders could be created. Dog breeders would be required to complete online registration details in order to receive their registration number. These details should include their name, address and LA. For litters planned or produced, the microchip number of the breeding bitch of each litter should be entered to create a new litter. Once known, the date of birth, breed or type of litter, number of puppies and the microchip number of each pup, could be added. Those identified as non-compliant within a specified time frame should have their registration number inactivated until they achieve compliance by updating the required information.

There should be two levels of access to the database, full access for LAs and limited access for prospective purchasers. A prospective purchaser could then obtain a breeder registration number from a puppy advert, enter this number into the Database, and access confirmation that the registration number is valid for the advertised litter. This would provide clarity for purchasers that they are purchasing from a legal source. In the event of a false or inactivated registration number being used, purchasers would be alerted to the lack of valid registration number. There should be a facility on the Database for purchasers to alert LAs to suspected illegal activities. The database should also have the capacity to create automated LA alerts if an attempt is made to register more than six litters from the same bitch, or if an unlicensed breeder attempts to register more than two litters in twelve months. This system would be self-governing and should be fully cost recoverable via a breeder registration fee payable online when setting up a breeder account, and when adding each litter. Such a scheme could harvest valuable data for enforcement purposes as well as decreasing the attraction of illegal dog breeding for those with criminal intent by improving visibility and traceability of the industry.

R7. Single Central Canine database

It is recommended that the goal for canine identification should be a single Central Canine Database for collation of microchip registrations, that is accessible by police and LAs, and implemented at either a country or UK level. If at a country level, it must be fully integrated with other UK systems. This is a separate but related issue to the creation of a Wales Database of Dog Breeders, although it would be advantageous in the future if both systems could be integrated. A Central Canine Database should have the ability to generate automated notifications to LAs of puppies whose microchips are first registered by someone other than the breeder, an indication of non-compliance with microchipping regulations.

6.2 c) Qualifying Conditions issue 3: inadequate staffing ratios

Part 2, section 8 of the Regulations (the grant or renewal of licences) states that:

'(2) The LA must attach to each licence granted—

the conditions contained in Schedule 1 to these Regulations.

a condition specifying the maximum number of adult dogs and puppies to be kept under the terms of the licence; and

a condition specifying a staff to adult dog ratio which must ensure as a minimum staff requirement—

1 full-time attendant per 20 adult dogs kept; or 1 part-time attendant per 10 adult dogs kept.'

Consulted stakeholders were unanimously of the view that a ratio of one full time member of staff to twenty adult dogs kept was insufficient to allow adequate socialisation and exercise programmes of all dogs.

Several stakeholders with experience of managing large numbers of kennelled dogs considered that after feeding, cleaning of kennels, performing daily health and welfare checks and keeping adequate records for this number of animals, there would be little or no time remaining for other necessary activities such as exercise and puppy socialisation.

Example calculation of time taken for daily animal husbandry tasks:

We can consider that one full time staff member works for 8 hours per day with a thirty minute break, thus providing 7.5 man hours per working day, or 37.5 hours per week.

If mating of breeding dogs occurs throughout the year, and there are 20 breeding bitches in a breeding establishment, then there would be an average of one litter produced every 18 days. Puppies may not be sold before 8 weeks, so there would be a minimum of three litters present on the property at any one time.

In a working day of 7.5 hours, **with 20 breeding animals, 1 full time member of staff would have only 22.5 minutes per breeding bitch per day, to perform all tasks**, including feeding, health checks, cleaning, recording, exercising the breeding bitch, and socialisation practice for each individual puppy if they had a litter.

In practical terms, this would mean that if only five minutes per day was spent on preparing food and feeding each pen, and only ten minutes per pen on performing health and welfare checks, changing water, changing soiled bedding and cleaning pens, the total time spent would be 5 hours. If it were possible to exercise 4 bitches at one time (not necessarily the case for poorly socialised animals), there would be 5 exercise groups of 4 bitches. If each group received 30 mins exercise per day, this would total 2.5 hours. Therefore a 7.5 hour working day could easily be taken up before any puppy socialisation programme has taken place or any additional tasks such as completing the required records, attending to sick animals, meeting customers, or vet visits.

In addition, these calculations are based on a 5 day working week, and do not take in consideration that breeding animals and puppies require their five basic welfare needs to be met every day, seven days per week. If we consider that one full time member of staff spreads their 37.5 hour working week over 7 days, that leaves just working 5.4 hours per day, or 16 minutes per breeding bitch for all tasks including feeding, health checks, cleaning, recording, exercise and socialisation.

The above calculations demonstrate that the staffing ratio of 1:20 is not adequate for any meaningful level of puppy socialisation programme, even if only three litters were present on the property at any one time. Within most Licence Conditions, there are no restrictions on how many breeding bitches may have litters at any one time. Therefore, there could be up to twenty litters present on the premises at any one time, rather than the average of three litters used in the above calculation. An improved ratio of more than one full time staff member per 20 adult dogs is essential for adequate provision of adult dog exercise and puppy socialisation.

R8. The Group recommends that an improved ratio, of one full time member of staff per 10 breeding bitches, should be considered. This staffing level should be present on every day including weekends, for a minimum of 7.5 hours per day. This would provide 15 staff hours per day for a group of 20 breeding bitches. If 3 litters were present then socialisation for 1 hour per day for each litter, or 11 minutes per puppy for an average litter size of 5.5 puppies, would take 3 hours per day. This would leave a further 12 staff hours for all other tasks, equating to 36 minutes per day per adult dog. Whilst the suggested improved ratio of 1 person to 10 dogs may sound generous, when described in terms of an estimated 11 minutes of puppy to human contact time per day, it appears less so.

Sections 3.1 and 3.2 of the Guidance refer to enrichment and socialisation programmes:

3.1 Enhancement & Enrichment

Under Regulation 7 of the Regulations an application for a licence must include a draft written programme detailing how the dogs on the premises will have the opportunity to express normal behaviour patterns.

In considering whether the draft programme does provide that opportunity, the LA should consider whether it provides for:

- *A suitable amount of human contact (e.g. grooming, training, handling and/or playing).*
- *A written exercise programme to include sufficient exercise considered to be at least 30 minutes a day for dogs and puppies over 6 weeks old.*
- *A suitable amount of access to outdoor environments which should be as complex as safety and cleanliness allows.*
- *If appropriate, access to play items which should be rearranged regularly and swapped (after cleansing) between runs.*

3.2 Socialisation of Puppies

Under Regulation 7, an application for a licence must include a draft socialisation programme detailing how puppies will be introduced to human handling, domestic environments, play and how they will be prepared for separation from the dam.

A draft programme should provide for a number of activities that may include:

- *Gently handling each puppy.*
- *Gradual introduction of low-level noise from 14 days onwards.*
- *Introduction to a variety of human contact daily from 21 days on.*
- *Play with suitable toys organised to play away from the mother.*
- *Where biosecurity and kennel health allow, puppies of different litters should mix in suitable environments. Care should be taken that removal of puppies for handling is done in such a way that it does not distress the dam.*

If training is included in the programme it should be reward-based; harsh training methods which may result in pain or fear must not be used.'

Section 3.3 refers to the staff to adult dog ratio:

'The Regulations state that the LA must attach to each licence granted, a condition specifying the maximum number of adult dogs and puppies to be kept under the terms of the licence.

The LA should have regard to factors such as the size and type of dogs kept at a dog breeding establishment when deciding the most appropriate staff: adult dog ratio to apply.

In particular this relates to accommodation, the dogs' health and environmental and socialisation needs. The Regulations state that the maximum number of adult dogs and puppies kept at any one time is stated on

the licence. In no case will it exceed 20 adult dogs per full time attendant or 10 adult dogs per part time attendant in line with the definitions provided in the Regulations.

*If the conditions of licence are not being met **consideration should be given to amending the ratio.**'*

R8.1 The Guidance indicates that LAs can decide as to when a higher number of staff per adult dog should be applied as a condition of a licence. It is recommended that LAs are proactive in applying a different ratio than the minimum one where necessary, in order to make sure that all required tasks, including adequate exercise and socialisation programmes, are realistically able to be completed during the working day.

LA representatives noted that there had been instances where staff members named on the Licence were family members who were either unlikely to be present, or unlikely to be physically capable of the work required. This means that staffing ratios may in practice be considerably worse than the licensable minimum of one staff member to twenty adult dogs.

The last paragraph of Section 3.3, Staff to Adult Dog Ratio, states:

'Supervision should be by a suitable and competent person who should be at least 16 years of age. They should be available and capable of dealing with emergencies. Examples of how staffing/attendance levels could be evidenced (this list is not exhaustive):

- *Proof of residence at the premises*
- *Payslips/timesheets*
- *Confirmation of volunteering from recognised charity/organisation*
- *Witness of attendance at inspection '*

R8.2 Section 3.3 of the Guidance is useful in defining the term 'staff member' and outlining the evidence required for proof of employment. It is recommended that LAs are proactive in applying a different ratio than the minimum one, if there is any doubt as to the actual staffing levels in place.

6.3 Issues identified with and recommendations for the Licence Conditions.

Maximum size of breeding operations

Issue: The current regulations allow breeders to license any size of breeding operation, provided that the regulations, including the licence conditions, are met. All stakeholders agreed that socialisation and enrichment was difficult to undertake on a large scale in any dog breeding establishment. It has been reported to the group that there is very little evidence of successful socialisation and enrichment programmes being undertaken at large scale private breeding establishments. However, stakeholders hold different opinions on whether there should be a cap on the number of breeding animals at a single premise. Some stakeholders believe that the largest establishments have better welfare provision than some medium-sized establishments. Many stakeholders consider that staffing ratios, and effective socialisation and enrichment plans are of more importance than overall dog numbers.

R9. The group recommends that further research is necessary in order to determine whether there would be an animal welfare benefit to capping the number of breeding bitches, and the number of total dogs, housed at a single breeding establishment. Without this it is not possible to determine whether there should be a limit on breeding unit size, or what that limit should be.

Condition 1: Enhancement and enrichment

The licence holder must implement an enhancement and enrichment programme that has been approved by the LA.

Issue: Breeders may not have sufficient knowledge or awareness of the importance of such a programme to be able to successfully design one.

R10. Condition 1 could be enhanced by adding a requirement for the enhancement and enrichment plan to have been agreed with the private veterinary surgeon for the breeding establishment, within an annual health plan, as well as approved by the LA and demonstrated at the time of inspection.

Condition 2: Socialisation

The licence holder must implement a socialisation programme that has been approved by the LA.

Issue: Breeders may not have sufficient knowledge or awareness of the important of such a programme to be able to successfully design one.

R11. Condition 2 could be enhanced by adding a requirement for the socialisation plan to have been agreed with the private veterinary surgeon for the breeding establishment, within an annual health plan, as well as approved by the LA and demonstrated at the time of inspection.

R11.1 It is recommended that the keeping of a Record of Puppy Socialisation should be made an additional part of condition 2. This record should be completed each day with the staff member's name, identification of the litter, and length of time spent on the socialisation programme, from 2 to 8 weeks of age.

Condition 3: Health

The licence holder must take all reasonable steps to protect dogs from pain, suffering, injury and disease.

Issue: There is no specific requirement within the Licence Conditions for any fitness to breed examination, or health planning, to be carried out, although there is more detail given within the Guidance.

R12. Condition 3 could be enhanced by the addition of a requirement to have a written health and welfare plan for the breeding establishment, agreed with, and reviewed annually by, the private veterinary surgeon. This health plan must be made available at the time of the inspection. This condition should include details of the required elements of the health plan, including a medicines usage record.

There should also be a further requirement in Condition 3 that all breeding animals declared on the licence must receive a “fitness to breed” physical examination at least once per year, and that if they are deemed unfit to breed then they must be removed from the licence. Later in this section we will discuss which veterinary surgeon should perform this function.

The sentence ‘The licence holder must take all reasonable steps to protect dogs from pain, suffering, injury and disease.’ Should be followed by the additional sentence ‘These must include a selection process for breeding stock that avoids breeding from animals with heritable physical traits that may impact negatively upon the health or welfare of future generations, for example poor or exaggerated conformational traits.

Condition 4: Mating

Issue: There is a welfare argument for increasing the age of first mating from 12 months to 18 months, and/or reducing the total number of litters from six to a lower figure such as four litters. The group consider that whilst such a change might be preferable, a good quality of life can nevertheless be achieved for a bitch that is bred first at 12 months and goes on to have a total of six litters in her lifetime. This issue was not highlighted by consulted stakeholders a main priority concern within the context of the current dog breeding situation. If the legal breeding lifespan of an individual animal were reduced then an increased number of animals would also be required to meet the same demand for puppies, which in turn would create an increased number of ex-breeding animals, a fact which also requires consideration.

R13. The group therefore considers that this condition should not be changed, subject to further evidence coming to light on this matter.

Condition 5: Change of ownership of a puppy

No changes required to this condition to retain puppies until 56 days of age.

Condition 6: Breeding bitch record requirements

Issue: There are concerns that the outcomes for retired breeding animals from licensed breeding establishments are often unrecorded and unknown. There are also concerns that ex-breeding bitches could be sold into a different LA area for breeding purposes, and could therefore breed more than the maximum of six litters in their lifetime.

R14. It is recommended that Condition 6 should contain an additional requirement to record the transfer of ownership details, including the identity of the new owner, or euthanasia details including the name of the veterinary practice carrying out the euthanasia, of ex-breeding animals. It is also recommended, that the microchip numbers of all breeding animals and the puppies they produce, from both registered and licensed breeders, are held on a central Wales database, allowing traceability of breeding animals from birth until death. This is discussed further in chapter six.

Condition 7: Puppy record requirements

Issue: There is evidence of puppies being sold without a microchip, or being microchipped but then sold without the microchip being registered in the name of the breeder, as required by law.¹⁵

R15. It is recommended that Condition 7 should contain an additional requirement to retain records of the microchip registration details for each puppy, for a period of three years, and provide these to the LA Inspector during the inspection. This would improve the traceability of puppies.

Issue: There are concerns that puppies may be sold without any form of veterinary health examination prior to sale.

R15.1 It is recommended that Condition 7 should include an additional requirement that all puppies bred in licensed breeding establishments receive a veterinary health examination, prior to sale, and that a record of the date of this examination and the name of the veterinary practice must be both retained by the breeder and provided to the purchaser (this could be carried out at the same time as the first vaccination of the litter).

¹⁵ Dog Breeding Regulations Review Task and Finish Group Puppy Owner Survey Results December 2019

6.4 Issues identified with and recommendations on the Guidance for LAs.

Stakeholders who were aware of the Guidance felt it to be an overall a useful and comprehensive document, but that it could benefit from the addition of further detail and clarification in some areas. The level of utilisation of the Guidance by LAs for inspection purposes was reported to be variable, and some stakeholders were not aware of the document and its intended use.

R16. It is recommended that the detail within the Guidance document should be revised with input from veterinary surgeons with expertise in the inspection of dog breeding establishments, to ensure that it contains all the necessary information.

6.4 a) Guidance issue 1: health examinations and fitness to breed

All stakeholders identified inconsistencies within the current system for veterinary supervision of breeding premises. One of the main issues identified was a perceived conflict of interest between the role of the private veterinary surgeon, who is acting on behalf of their breeder client, and the role of the inspecting veterinary surgeon, who is acting on behalf of the LA in an official capacity. LAs, inspecting vets and private vets, together with all other stakeholders feel strongly that clear separation of these roles is required. Currently, the Guidance does not make the role of the private veterinary surgeon clear. Some LAs request that annual “fitness to breed” examinations are carried out by the breeder’s private veterinary surgeon. These examinations are not part of the statutory Licence Conditions, and as such this requirement varies between LAs. There are several reasons why it may be difficult for the private vet to be responsible for decisions regarding “fitness to breed”. The lack of a recorded, future plan for those animals declared unfit to breed is a concern for vets. Private veterinary surgeons can be placed in a difficult position when declaring animals "unfit to breed" due to common, heritable conformational traits. Breeders may find it hard to accept that characteristics which are ubiquitous in their preferred breed, and even considered desirable by purchasers, such as brachycephalism (shortness of the muzzle), or exaggerated limb or spinal conformation, can be inherently bad for animal welfare. For licensed Riding Establishment inspections, the LA appointed inspecting vet must perform examinations of all horses used for teaching and hire purposes, during the inspection. For these reasons, it may be preferable for an independent vet to carry out the “fitness to breed” examinations for dog breeding establishments.

Many LAs already utilise appointed vets in an inspecting role. This use ranges from performing just the initial inspection for a new licence application, to requiring an annual inspection by their appointed veterinary inspector for licence renewal. There is a great deal of inconsistency between LAs’ use and frequency of veterinary inspections. LAs noted that in cases where private veterinary surgeons supplied a lack of detail within “fitness to breed” reports, such reports could hinder the prosecution process in relation to animal welfare offences. All stakeholders agree that specific training for both the inspecting vet role, the inspecting LA officer role, and the private veterinary surgeon in a health planning role, is necessary and should become a requirement within the Guidance.

R17. The role of the private veterinary surgeon, and that of the inspecting veterinary surgeon, should be clearly separated and defined. Inspecting vets should be independent and should not inspect their own clients' premises. A dedicated panel of vets with expertise in dog breeding establishment inspection should be established within Wales.

R18. Training should be provided for vets undertaking a breeding establishment inspection role, with an independent body. This should be valid for 5 years, in line with the Riding Establishments inspection scheme. For riding establishments, the qualifying conditions for veterinary surgeons to act as inspectors are rigorous, and include requirements to work with equines and to undergo refresher training.¹⁶

R19. Private veterinary surgeons should take on a proactive, health planning role in breeding establishments, similar to the role of a farm vet in health planning. They should create a health and welfare plan, including the required socialisation and enrichment plan, for each establishment, and review this annually. The requirement to have a health plan, and its contents, should also be made a condition of the licence. The health and welfare plan should be a working document used in the daily husbandry and management of the establishment.

R20. Private veterinary surgeons named on breeding licences should be required to undergo training in health planning for breeding establishments. The panel of veterinary inspectors for dog breeding licences could assist in devising a suitable short health planning course and health plan template, providing consistency and a collaborative approach between the different veterinary roles.

R21. It should be written within the Guidance, that all breeding animals must receive an annual health examination from a veterinary surgeon, that must be recorded including microchip number.

R22. It should be written within the Guidance, that puppies must receive a veterinary health examination prior to sale, recorded and including the microchip number.

R23. The costs of veterinary health planning should be met by the breeding establishment, and the costs of the inspecting vet should be met by an appropriate increase in the licensing fees.

R24. Consideration should be given to which veterinary role is best placed to perform the "Fitness to Breed" examination. Consideration should be given to passing this role to the LA appointed inspecting vet at the annual inspection, in the same way as an appointed vet performing a Riding Establishment inspection must examine every horse used for hire or teaching. The increased inspection cost should be fully recoverable through an appropriate increase in licensing fee. A less favourable alternative would be the creation of a facility enabling the private vet to refer a query over an individual animal's fitness to breed to the panel of inspecting vets, should the need arise. The format of the "fitness to breed" examination should be standardised and documented on a standardised form, for consistency between LAs.

¹⁶ [RCVS requirements for riding establishment veterinary inspectors](#)

6.4 b) Guidance issue 2: dog accommodation and exercise provision

Some stakeholders identified a lack of clarity and detail within the Guidance on dog accommodation and exercise provision.

R25. The Guidance lacks detail on accommodation and exercise provision, and should be revised. Greater clarity is required on kennel and sleeping area sizing. All kennels should contain raised, warm, dry sleeping areas, with one bed per dog. Consideration should be given to a requirement for all kennels to have access to a separate run area. Minimum size of runs and what constitutes 'free access to exercise' should be clarified. The definition of 'exercise area' should be clarified and the term should not refer to a run attached to the sleeping quarters which should not be acceptable as the only source of exercise. The minimum level of environmental enrichment required should be specified. There should be guidance on the minimum area for free exercise provision. If free exercise is not possible, there should be a requirement to have lead walking rotas in place and to demonstrate evidence of their use. There should be guidance on the size of whelping areas, which should be at least double the minimum size of normal kennels.

The Guidance section 1.2 'Size of Quarters' states:

'The following units of measurement, e.g. height, temperatures etc. provide advice to enforcement officers. It should be borne in mind that some dogs, such as working gundogs due to their type and nature may be kept in accommodation other than that which is laid out in the guidance. Each individual situation should be considered on its own merits.

Kennels should be divided into sleeping and activity areas. Kennels should be provided with an adequate size of sleeping area, such that dogs can stand, turn around, stretch and lie down flat in a natural position, with sufficient space for the door to open fully. Special consideration should be given to whelping bitches and bitches in season. Kennels should cater for the maximum number of puppies having regard to the size of the breed and litter size.

The following are the recommended minimum requirements of enclosures for small, medium and large adult dogs.

Note:

Free access to exercise means the dogs have unrestricted daily access to an exercise area.

Limited access to exercise means the dogs have restricted access to an exercise area.

Calculations for size of quarters may not be suitable for hunt kennels or lodges.'

Minimum Enclosure Sizes

Number of Dogs	Minimum Enclosure Area (m2)	
	Free access to exercise	Limited access to exercise
Small dogs		
1	2.5	4.5
2	2.5	4.5
3	4.5	6.5
4	6.0	8.5
Medium dogs		
1	2.5	4.5
2	4.5	6.5
3	6.0	8.5
Large dogs		
1	4.5	6.5
2	6.0	8.5

If the licenced premises operate in a domestic home and dog cages are used, the LA should consider whether the cages are suitable for the size of dog kept.

Where used, cages should be of sufficient size to allow each dog to be able to sit and stand at full height, step forward, turn around, stretch and lie down in a natural position and wag its tail, without touching the sides of the crate. Dogs should not normally be confined to a crate for more than a total of a nine-hour period during any 24 hours'

6.4 b) i) The guidance above offers two options for kennel sizes depending on whether access to exercise is limited or free access.

R25.1 We recommend that only one set of enclosure sizes are used in the Guidance, which should be the larger dimensions identified above as being for situations with 'limited access to exercise'. This would avoid ambiguity regarding what constitutes 'free access to exercise'. In addition, requirements for all kennels to have an attached run, and for whelping areas to be double the minimum kennel size, should be considered.

6.4 b) ii) The use of small, medium and large sizes of dogs is open to interpretation, making the inspection and enforcement of this guidance difficult for LA inspectors.

R25.2 We recommend the use of approximate dog measurements within the Guidance to aid the classification of small, medium and large dogs. Suggested measurements would be maximum height to the base of the neck, and maximum length from the tip of the nose to the attachment of the tail. For example:

- Small dogs (maximum 50cm length, and maximum 30cm height)
- Medium dogs (maximum 80 cm length, and maximum 60 cm height)
- Large dogs (greater than 80 cm in length, and greater than 60 cm in height)

6.4 b) iii) The guidance above is ambiguous with regards to the use of crating for dogs kept in a domestic home. It implies that crating for a maximum of 9 hours is acceptable, without stipulating minimum crate measurements, minimum exercise area dimensions for the other 15 hours of the day, or minimum frequency of access to toileting areas. It should also be specified that crating is not appropriate for a bitch during whelping or whilst nursing a litter. Larger scale breeders could exploit this acceptance of crating in the home to avoid the building of adequate purpose-built kennelling, by keeping multiple dogs crated for long periods within the home.

R25.3 We recommend the following additional wording at the end of the sentence '*Dogs should not normally be confined to a crate for more than a total of a nine-hour period during any 24 hours*':

Evidence must be provided to demonstrate that all breeding dogs kept within the main living areas of the home have the free run of an area of at least the same size as the minimum enclosure dimensions in table 3.4, for a minimum of 15 hours per day. Dogs kept outside of the main living areas of the home must always be kept in accordance with the minimum enclosure sizes specified in the above table. Dogs kept within the home must receive a minimum of four outdoor toilet breaks per day, with the longest time between these being no greater than 9 hours.

Breeding bitches kept within the home must be provided with a private, individual space, of at least double the minimum enclosure sizes in the above table, at all times during whelping and when nursing a litter.

Part 7. Barriers to effective enforcement of the Regulations, and recommendations

Multiple stakeholders cited lack of effective enforcement of the current regulations as their main concern with the dog breeding Regulations.

In this section the individual barriers to and issues associated with enforcement will be explored.

7.1 Difficulty in identification of illegally unlicensed breeders

As stated earlier in this report:

'It is recognised that a large number of illegally unlicensed breeders exist, and that the scale of this activity is difficult to estimate. The Kennel Club estimate, from puppy registration figures, that there should be 900-1000 licensed breeding establishments within Wales, suggesting that the establishments that are currently licensed may only represent only 25% of those who meet the licensing threshold. This suggests that 75% of breeders who meet the threshold are failing to comply with the regulations; a concerning figure. Currently, some LAs are very proactive in trying to identify illegally unlicensed breeders. This is a time consuming and resource-heavy process and is not being applied consistently across all LAs. Known links exist between illegal dog breeding and the activity of criminal gangs in Wales. The large, unrecorded volumes of cash that can change hands through sales of puppies make the dog breeding industry attractive to criminals. The Proceeds of Crime Act 2002, which allows LAs to re-invest Proceeds of Crime seized following successful prosecution cases, has great potential in helping to fund future cases which in turn could provide additional funding from Proceeds of Crime. This approach has already been adopted by some LAs in Wales.'

*The majority of stakeholders agree that it is a priority to try and identify the illegally unlicensed category of breeder. Apart from the criminal element of this activity, there is high risk to animal health and welfare, given the large number of puppies likely to be bred in the estimated 75% of in-scope breeding establishments that currently operate beneath the radar of any scrutiny by LAs. Many stakeholders agree that some type of **legal recognition of all forms** of dog breeding enterprise would be of benefit in helping to identify illegally unlicensed breeders.'*

One LA has been very proactive in the detection of illegally unlicensed breeding operations. It has done so by employing a full-time member of staff to monitor internet and social media sales of dogs for evidence of illegal activities. When we consider the numbers of licensed establishments in different LA areas, some of the highest population density areas have very few licensed breeding establishments relative to their population. It is likely from the numbers of litters being vaccinated at veterinary practices that significant numbers of puppies are bred in Central-South Wales, and South-East Wales, yet the number of licensed establishments here relatively low. These two incongruous facts suggest that there may be a high concentration of illegally unlicensed breeders in certain areas.

Because LAs are acting independently in seeking out illegally unlicensed breeders, the intelligence gathered is not currently being collated and therefore it is possible that a known offender could set up another breeding establishment in a different LA region without being detected.

R26. After five years of implementation of the Regulations, the expected numbers of breeders producing more than the licensable threshold of two litters in twelve months, have not brought themselves forward voluntarily for licensing. As many as 75% of those intended to be encompassed by the Regulations may currently remain unlicensed. It is recommended that increased levels of detection are therefore warranted to identify these illegally unlicensed breeders and bring them within the law.

The following previous recommendations would also aid in the identification of illegal breeding activities:

R5. Registration for all breeders and display of registration number on advertising

R6. Creation of a Wales Database of Dog Breeders

R7. Consideration of a single Central Canine Database

R27. Funding should be made available for the formation of a shared team of staff from different LAs with the purpose of identification of illegal dog breeding activities. This collaborative approach would reduce the resource burden on individual authorities and allow the intelligence gathered to be disseminated across regions. Since internet advertising of dogs takes place primarily on UK-wide, rather than local, platforms, having separate teams monitoring such activity is unnecessary duplication of effort. Once such a team has been set up, there is scope for the Proceeds of Crime Act to be utilised for provision of ongoing funding.

R27.1 The Kennel Club are aware, through registration data, of unlicensed members in Wales, who register greater than the licensing threshold of litters in a twelve month period.¹⁷ LAs and the Kennel Club should explore the possibility that unlicensed breeders should be prevented from automatically being allowed to register greater than two litters in twelve months under the same breeder name, as these litters are likely to have been bred illegally. Although not the role of the Kennel Club to police members, the knowing registration of such animals may increase their market value thereby fuelling an illegal aspect of the industry.

R27.2 It is essential that the licensing and inspection processes are fully cost recoverable for any increase in the number of licences issued through increased industry surveillance. Fees should be risk based, proportionate and should take into consideration the enforcement resources required for different sizes and risk categories of breeding establishment. For example, the initial licensing fee set by one LA is nearly double the licence renewal fee, which takes into account the additional set up costs. Fees should incorporate the cost of an annual veterinary inspection of a breeding establishment by an independent LA appointed vet.

¹⁷ Verbal evidence provided by the Kennel Club at a stakeholder meeting

7.2 Poor conditions at licensed breeding establishments

The existence at some licensed breeding establishments in Wales, of poor living conditions that compromise animal health and welfare, has been highlighted by evidence from animal welfare organisations. Such conditions were the focus of a BBC documentary programme on the subject that was aired in September 2019 and included the views of several veterinary surgeons who agreed that the standards shown were not acceptable. Concerns raised included those relating to poor cleanliness and hygiene, lack of natural light, lack of comfort, lack of raised sleeping areas or dry bedding, lack of environmental enrichment facilities such as toys, evidence of dog health issues, and incorrect or lack of disposal of carcasses. Such concerns were one of the reasons for the commissioning of this review.

It is important that we remain objective when considering this evidence, particularly of photo and video imagery that may be selectively presented in order to support a particular viewpoint, and as such may not accurately represent the real life situation. Having said that, multiple veterinary surgeons, as well as other stakeholders including animal welfare organisations, have confirmed to the Group that these are not isolated incidents and that there remain examples in Wales where breeding bitches and puppies are being kept in conditions well below the required standards for licensed premises. We need to therefore consider the existence of inadequate accommodation and welfare provision on licensed premises, in terms of being an “enforcement issue”. To consider it as such, is not to lay blame with any particular group involved in the licensing process, since this issue must be viewed holistically in the context of all the barriers to effective enforcement that are discussed in this section.

There are two facets to providing suitable accommodation for breeding dogs and their puppies. Firstly, like any other kept animal, they must be provided with clean, comfortable housing and an environment that meets their five welfare needs. Some of the evidence that has been presented shows puppies in areas that are not clean or dry, and lack clean water, comfortable sleeping areas, dry bedding, or enough light. Clearly if these are a true representation of conditions, those five basic welfare needs are not being met. The second aspect to rearing puppies is more complex: the need for adequate socialisation and enrichment is essential in order to produce a confident dog with the ability to adapt to a home environment and thrive as a pet. The importance of this has been recognised in the Regulations, with the production of socialisation and enrichment plans being a qualifying condition for the licence application process.

Whilst there may be some establishments that fail to provide clean, comfortable accommodation that meets the five welfare needs, there is likely to be a larger group that do not adequately meet the requirements for environmental enrichment or socialisation. Many large-scale dog breeding establishments in Wales have arisen as farm diversification schemes and as such are housed in ex-agricultural buildings that have been converted for the purposes of dog breeding. Many such breeders have experience of livestock production and transferable knowledge and skills in areas of animal health, nutrition and housing, but may lack an understanding of the importance of the canine specific needs of enrichment and socialisation programmes.

Likewise, LA officers inspecting these premises for the purposes of granting or renewing a licence may easily be able to inspect the physical aspects of the accommodation, and the existence on paper of an adequate socialisation and enrichment plans. However, it is much more difficult to inspect the practical implementation of such programmes, which are subjective and for which there is no standardised, evidence-based protocol.

R28. It is recommended that LA inspectors receive specific training in the physical, socialisation and enrichment aspects of dog breeding establishments. It is recommended that, as part of this training, LA inspectors should visit a breeding establishment where effective socialisation and enrichment programmes are being implemented, in order to gain experience of good practice.

R29. The creation of a panel of trained dog breeding licensing inspectors who could undertake all breeding licence inspections in Wales, should be considered. This pooling of resources would reduce the duplication of LA costs and increase levels of expertise. Inspectors could also be recruited from outside of the LA (for example there are some retired veterinary surgeons already performing this role), reducing the burden on LA staff.

R30. It is recommended that the first inspection of a breeding establishment for the purposes of gaining a licence should always be carried out by a LA inspector in conjunction with their appointed independent veterinary surgeon. This collaborative approach would enable knowledge sharing and increased understanding of the less easily inspected aspects of breeding establishments, ensuring similar advice is offered by both veterinary and LA inspectors.

7.3 Lack of effective enrichment and socialisation programmes

The breeding of dogs in Wales primarily occurs to supply a large UK demand for family pet dogs and is carried out mainly for financial gain. Therefore, producing well socialised puppies may not be a primary objective of the breeder. Effective dog breeding controls must ensure that all dogs used for breeding in Wales and their offspring should have good health and a good quality of life, whilst also ensuring that puppies bred in Wales receive adequate enrichment and socialisation at the breeding premises. This helps to equip them with the social and behavioural skills necessary to adapt to a home environment and become successful pets, with the ability to live safely with children and other dogs if required. The fact that dogs are capable of inflicting serious injury when reacting to a fearful situation is important to consider when discussing the importance of early socialisation. Inadequately socialised puppies, with poor mental and behavioural welfare, are likely to develop undesirable behaviours that carry a high risk of that puppy being either re-homed or euthanised.

A study of data from primary care veterinary practices in England published in 2018 on deaths in dogs under three years old found dogs with undesirable behaviours were at a higher risk of death than dogs with other serious health issues and the largest cause of death was euthanasia¹⁸. Undesirable behaviours associated with poor socialisation include aggression towards people or other dogs, inappropriate urination and defaecation, separation anxiety, continuous periods of barking, and destructive behaviour in the home. It is estimated that 130,000 dogs are given up for adoption annually in the UK; in many cases this will be due to undesirable behaviours that make rehabilitation and future re-homing a lengthy and difficult process.

Inadequate puppy socialisation has direct and profound negative consequences on animal welfare, ranging from premature euthanasia, repeated re-homing, inability to interact with people or other dogs appropriately, and extended periods of confinement as a consequence of undesirable behaviours being displayed in the home. When discussing animal behaviour, we can describe it in terms of being “desirable” or “undesirable”. These terms refer to how we as humans view the behaviour, and whether we desire a particular behaviour to be displayed or not by an animal. This is an important concept, as most canine behaviours (desirable or undesirable) are conditioned behaviours displayed because they have been learned by the dog as a consequence of their environment, previous experiences, and training. Anthropomorphic terms such as “good” and “bad” behaviours should be avoided, as they imply some kind of ethical motivation which does not exist since the dog does not have innate knowledge of what might be considered desirable or undesirable in human society. For example, barking aggressively at other dogs when on the lead is a common, learned, **undesirable** behaviour, that usually stems from fear. A dog standing by the door and giving cues to an owner that they need to go outside is a common, learned, **desirable** behaviour.

The group found that whilst all stakeholders recognised the need for effective puppy socialisation, opinions varied as to whether they considered this one of the most important aspects of the dog breeding Regulations. Stakeholders who deal on a daily basis with the aftermath of poorly socialised dogs, such as animal welfare organisations and veterinary surgeons, tended to rate lack of adequate socialisation as the single greatest challenge of large-scale dog breeding. Local Authority representatives emphasised the difficulties of inspecting and enforcing mental and behavioural welfare provisions. Many stakeholders agreed that there was a lack of clear evidence as to whether adequate socialisation could in fact ever be achieved on a large scale. The effects of environmental factors (such as background noise levels from large numbers of dogs, and lack of socialisation skills of the bitch) may have unknown consequences for the future behaviour of puppies reared in that environment.

¹⁸[Boyd et al. Mortality resulting from undesirable behaviours in dogs under 3years old attending primary care veterinary practices in England](#)

The Guide Dogs National Breeding Centre breeds and rears up to 1500 puppies per year, some of which are whelped and reared in foster homes and others at the centre. This is an example of good socialisation provision on a huge scale, with all puppies undergoing a structured programme of socialisation and enrichment. The cost of this in terms of labour is likely to be prohibitive of this model being viable for a commercial puppy breeder, unless purchasers can be educated in the future to recognise and pay a premium for the long term benefits of a well socialised dog. Most stakeholders agreed that the difficulties of effective puppy socialisation increase as the scale of a breeding establishment increases. LAs expressed concern that refusal or revocation of a licence on the grounds of inadequate socialisation provision is very subjective and could potentially be successfully appealed in court by the breeder. This is significant as there is a fear within LAs of pursuing prosecutions that may fail or be successfully appealed due to the financial implication of having to pay their own and the breeder's legal costs following an unsuccessful case.

LAs expressed difficulty in inspecting the implementation of enrichment and socialisation provisions beyond inspection of the written socialisation plan. It is difficult to ascertain during an inspection visit the level of engagement with, and effectiveness of, a socialisation plan. Several stakeholders commented that breeders do not see the need for effective socialisation programmes and can view them as a "tick-box" exercise. It is important that socialisation programmes are not a paper exercise but are focussed on the outcome of producing a dog able to adapt to family life in a home.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 regulations were cited as an example of an outcomes-based requirement for socialisation. Schedule 6 section 4 states that:

- '1) The licence holder **must implement and be able to demonstrate use of a documented socialisation and habituation programme for the puppies.***
(2) Each dog must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.'

Many stakeholders identified that breeders with a business model reliant on sales to third party dog sellers tended to view puppy socialisation as less important than breeders selling to private homes. This was thought to be due to lack of contact with puppy purchasers at the end of the supply chain, making the link less obvious between the puppies they produce and the home environments these puppies will be expected to adapt to.

R31. It is recommended that the Guidance on enrichment and socialisation for puppies is revised and made more detailed and outcomes-focussed, recognising the relative importance of good socialisation.

R31.1 It is recommended that the Welsh Government template socialisation¹⁹ and enrichment plan documents²⁰ are updated. The current format relies on the breeder documenting the planned activities and the LA officer signing these objectives off if they have been met. The format could be changed to include the demonstration of each type of activity for the inspecting officer.

R31.2 It is recommended that this socialisation plan is not only approved by the LA, but its implementation must also be demonstrated to the inspecting officer at the time of inspection.

R32. It is recommended that LA inspection of licensed breeding establishments should take place twice per year (or more frequently in the case of a shorter licence being issued) and that one of these inspections should be unannounced. This may provide inspecting officers with a truer representation of animal welfare standards (including socialisation provisions) than a planned visit.

The following previous recommendations would also aid in the improvement of socialisation and enrichment provision:

R11. The addition of a requirement for a socialisation plan, and demonstration of this plan, to Licence Condition 2. The keeping of a Record of Puppy Socialisation should also be made an additional part of Condition 2. This record should be completed each day with the staff member's name, identification of the litter, and length of time spent on the socialisation programme, from 2 to 8 weeks.

R28. Training for LA dog breeding inspectors on the importance of puppy socialisation and how it can practically be achieved, including a visit to an example of good practice.

¹⁹ [Welsh Government template-Puppy Socialisation plan](#)

²⁰ [Welsh Government template -Enrichment](#)

7.4 Inconsistency of approach between Local Authorities

Many stakeholders, including representatives from LAs, noted an inconsistency of approach to enforcement of the Regulations between different authorities. One suggested that this may create a legal loophole, where a breeder facing licence refusal, revocation or prosecution, could challenge the LA decision by citing inconsistencies in approach between authorities. All stakeholders agreed that a more uniform approach to enforcement across regions would make enforcement easier and more effective.

Use of the Guidance

R33. It is recommended that a consistent approach to enforcement of the Regulations is implemented by all 22 LAs across Wales. This approach should include the universal adoption of the Guidance by all 22 LAs as the basis for their Model Licence Conditions and the standard against which all breeding establishment inspections are carried out.

R16. Prior to this increase in use of the Guidance, it is recommended that the detail within the document should be updated with input from veterinary surgeons with expertise in the inspection of dog breeding establishments, to ensure that it contains all the necessary information.

Wales Database of Dog Breeders

R6. As discussed previously, the implementation of a Wales Database of Dog Breeders for both registered and licensed breeders is recommended. This database would allow increased consistency of approach by enabling data access for all LAs.

Fee setting:

R34. It is recommended that all LAs adopt a consistent approach to fee setting. This could include a higher fee for the initial licence period, to account for the application process and initial LA and veterinary inspection costs. Following the initial fee, subsequent fees should be based on the number of breeding animals and the risk-based frequency of inspections. Establishments with earned recognition deemed to be at low risk of compliance failure, and those with fewer breeding animals, could incur the lowest fees, and the lowest frequency of inspections. Establishments considered at risk of compliance failure and larger establishments could be charged higher fees and have the greatest frequency of inspections. Within this framework of uniform approach, it is recognised that individual fee figures will differ according to regional cost variation, for example of veterinary inspections.

Granting of licences:

R35. It is recommended that a consistent approach is taken to processing licence applications and the granting of licences. The initial assessment of a new dog breeding licence application and assessment of the proposed socialisation and enrichment plans should be undertaken in conjunction with a LA officer who has specific training in inspecting dog breeding establishments.

R30. As previously stated, the first inspection of a breeding establishment for the purposes of gaining a licence should always be carried out by a LA inspector in conjunction with their appointed independent veterinary surgeon.

Frequency of inspections:

An example of current good practice is that all LAs are currently inspecting all licensed breeding establishments at least once per year.

R36. It is recommended that a consistent approach to frequency of inspections is taken.

Following the initial licensing inspection, subsequent inspection intervals should be decided using a risk-based approach of earned recognition in order to focus resources on premises which are considered to be at greatest risk of non-compliance with their licence conditions. Establishments with earned recognition deemed to be at low risk of non-compliance should have the lowest frequency of inspections and considered at risk of non-compliance should have the greatest frequency of inspections.

R37. It is recommended that inspection by an independent LA appointed veterinary surgeon should take place once per year at every licensed establishment, in line with the approach used for Riding Establishments. It is also recommended that at least one inspection per year should be carried out by the LA officers, and that that at least one inspection per year should be unannounced.

A suggested format for licence renewal could therefore be one announced inspection by the independent appointed veterinary surgeon, plus one unannounced inspection by the LA. Those establishments that have had compliance issues may require more frequent inspections until they have consistently demonstrated good practice.

Length of licensing Period:

R38. The Regulations state that the maximum licensing period will be 1 year (Regulation 8.2(4) '*The LA may grant or renew a licence for any period up to 1 year*'). It is recommended that a consistent approach to licensing periods should be adopted.

It is recommended that the length of a licence period should be decided using a risk-based approach of earned recognition in order to focus resources on premises which are considered to be at greatest risk of non-compliance with their licence conditions.

Establishments with earned recognition, at low risk of non-compliance, should have the maximum one year length of licence period, and those at risk of non-compliance should have a shorter length of licensing period.

The approach of using risk-based, shorter licensing periods has been successfully demonstrated by some LAs and shown to improve compliance with the Regulations. An approach of granting short licence periods is therefore recommended (of 1, 3 or 6 months) for those establishments that are found to have fallen beneath the required standards in some areas but are actively demonstrating effective improvements, until full compliance with the Regulations is achieved. Using this approach, licence revocation may not be necessary if progress is consistently being made. This approach enables LAs to monitor the animal welfare situation regularly, whereas licence revocation does not.

Recommendations made elsewhere in this report that would create increased consistency of enforcement approach:

R5. Registration for all breeders and requirement to display the registration number on advertising

R14. Condition 6 should contain an additional requirement to record the transfer of ownership details or euthanasia details of ex-breeding animals.

R15. Condition 7 should contain an additional requirement to retain microchip registration details for each puppy.

R18. Training should be provided for vets undertaking breeding establishment inspection and there should be a panel of inspecting vets.

R19. Private veterinary surgeons should take on a proactive, health planning role.

R23. The costs of health planning should be met by the breeding establishment, and the costs of the inspecting vet should be met by an appropriate increase in the licensing fees.

R32. LAs should inspect licence holders breeding establishments at least twice per year and one of these inspections should be unannounced.

R28. Training of LA dog breeding inspectors.

R29. The creation of a panel of dog breeding inspectors.

7.5 Lack of dog breeding establishment specific training for Local Authority inspectors

All stakeholder groups, including LA representatives, identified a lack of expertise relating to dog breeding and rearing, within the LAs, as a barrier to effective enforcement of the Regulations. The reasons outlined previously in this chapter, particularly in relation to subjective criteria such as enrichment and socialisation programmes, explain why it is difficult to achieve adequate enforcement without a specifically trained officer team.

Many of the recommendations already made address this need for specific knowledge:

R33 A consistent approach to enforcement should be adopted by all 22 LAs, beginning with universal adoption of the Guidance for LAs.

R28. Training of LA dog breeding inspectors, including the physical, enrichment and socialisation aspects of dog breeding establishments, and experience of good practice.

R29. The creation of a panel of trained dog breeding licensing inspectors who could undertake all of the breeding licence inspections in Wales, should be considered. This pooling of resources would reduce the duplication of costs between LAs and increase the levels of expertise available. These inspectors could potentially be recruited from outside of the LA, placing a reduced burden on LA staffing.

R35. Initial assessment of a new application and the socialisation and enrichment programmes should be undertaken in conjunction with LA dog breeding inspector.

R30. The first inspection of a new breeding establishment should always be carried out by a LA appointed inspector in conjunction with their appointed independent veterinary surgeon. This type of collaboration would enable knowledge sharing and increased understanding of the less easily inspected aspects of breeding establishments, ensuring that similar advice is being offered by both veterinary and LA inspectors.

R37. It is recommended that an inspection by an independent LA appointed veterinary surgeon should take place at least once per year and that at least one inspection per year should be carried out by the LA.

7.6 Lack of available resources for Local Authorities

All stakeholders were in agreement that lack of funding and resources for LAs, who have many competing demands on those resources, is a barrier to enforcement. Some stakeholders considered that this was the single greatest barrier to effective enforcement.

R39. It essential that no steps are taken in response to this report, which increase the financial and time burden on LAs that are already stretched, without making provisions in terms of funding and staffing levels for such steps to be implemented. Such action could conversely create negative animal health and welfare outcomes, by allowing less resources for existing enforcement practices being carried out by many LAs.

The following recommendations that have been made elsewhere in this section would help to reduce the burden on LA resources:

R29. A panel of trained dog breeding licensing inspectors who could undertake all of the breeding licence inspections in Wales, should be created. This pooling of resources would reduce the duplication of costs between LAs.

R34. It is essential that the licensing and inspecting processes are fully cost recoverable for any increase in the number of licences issued through increased industry surveillance. Fees should be risk based, proportionate and variable taking into consideration the enforcement resources required for different sizes and risk categories of breeding establishment. For example, the initial licensing fee set by one LA is nearly double the licence renewal fee to take into account the additional set up costs. Fees should incorporate the cost of an annual veterinary inspection of a breeding establishment by an independent LA appointed vet.

7.7 Lack of a deterrent for non-compliance with the legislation

Both animal welfare NGOs, and LAs cited difficulties in pursuing legal consequences for breeders in contravention of the Regulations as a barrier to enforcement. LAs found that prosecution could be a very slow process and were also reliant on the written evidence provided by attending private vets and their willingness to participate. Licence revocations and refusals could be contravened by breeders, and following revocation or refusal LAs lacked powers of re-entry to ascertain whether illegal breeding activities were ongoing. Consequently, there is a lack of any effective deterrent for those who continue to breed illegally following their detection for illegal breeding or following a licence refusal or revocation.

R40. It is recommended that a Fixed Penalty Notice scheme of “on the spot” fines be introduced for ease of enforcement of minor dog breeding or microchipping regulation offences, as requested by LA stakeholders.

R41. It is recommended that given the potentially severe animal welfare consequences of continued illegal breeding following licence revocation or refusal, LAs should be granted powers of unannounced re-entry for a specified time period following revocation or refusal, in order to inspect the premises and confirm that illegal breeding operations have ceased.

R38. An approach of granting short licence periods is recommended (of 1, 3 or 6 months) for those licenced establishments that are found to have fallen beneath the required standards in some areas but are actively demonstrating effective improvements, as this allows animal welfare to be closely monitored by authorities, whereas licence revocation does not.

Part 8. Additional issues and recommendations

8.1 Microchipping compliance and traceability

All stakeholders identified lack of traceability of breeding dogs and puppies as a barrier to effective enforcement of dog breeding controls, hindering the detection of illegally unlicensed breeders.

The Microchipping of Dogs (Wales) Regulations 2015²¹ require all dogs over eight weeks of age to be microchipped, and the details of the keeper, the dog, and the microchip to be entered on to an approved database. For many years there were only a few UK canine database providers, such as Petlog (the largest UK database), Identibase (which describes itself as the most advanced) and UK Pettrac. In recent years, many more databases have been set up.

List of Approved UK canine microchip databases

- Animal Tracker
- Chipworks
- Identibase
- MicroChip Central
- MicroDogID
- National Veterinary Data Service
- Pet Identity UK
- Petlog
- PetScanner
- ProtectedPet
- SmartTrace
- UK PETtrac

Section 8 of the microchipping regulations states:

'Change of keeper

8.(1) From 6 April 2016, where a dog is transferred to a new keeper, the new keeper must, unless the previous keeper has already done so, record their full name, address and contact telephone number (if any) and any change in the dog's name with the database on which the dog's details are recorded pursuant to regulation 3(5)(b).

(2) From 6 April 2016 no keeper may transfer a dog to a new keeper until it has been microchipped unless a certificate issued under regulation 3(2) or 3(3) states that microchipping would significantly compromise a dog's health.'

This means that even if a puppy is sold below eight weeks of age (which would be a contravention of the Licence Conditions if that puppy came from a licensed establishment) it is **illegal for the breeder to sell it without microchipping it and registering the microchip** details in their own name.

²¹<http://www.legislation.gov.uk/wsi/2015/1990/contents/made>

Section 5, parts a, b and c of the microchipping regulations refer specifically to the database recording of breeder information:

'Details to be recorded on databases

5. (1) The details to be recorded on a database are—

- a) the full name and address of the keeper;***
- b) where applicable, the fact that the keeper is also the breeder;***
- c) if the keeper is the breeder and is licensed by the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 (7)—***
 - i) the breeder's licence number; and***
 - ii) the name of the LA by which they are licensed;'***

This makes it clear that database providers have a legal obligation to have the capacity to record information such as whether the keeper is the breeder, whether they are licensed, the licence number and the name of the LA by which they are licensed. Therefore, all approved, legislation-compliant databases should already hold the ability to implement full traceability of puppies from licensed breeding establishments.

Access to the following information is necessary in order to implement full traceability of puppies back to their origin:

- The microchip number of the puppy
- The breeder's licence number (or potentially registration number, in the future)
- The LA area
- The date of birth of the litter
- The number of puppies in that litter

The above examination of the microchipping legislation shows that approved microchip registration databases should **already hold the capacity to store all the data required for full traceability of puppies** bred by licensed breeders. The breeder licence number and LA are already requested by the database as per the legislation, and the dates of birth and number of puppies in each litter is information that could be harvested from the database using the breeder licence number.

Traceability of puppies from licensed breeding establishments fails due to non-compliance with the legislation rather than the legislation itself.

Non-compliance occurs in several ways:²²

- puppies are sold having been microchipped, but the microchip has not been registered to the breeder
- puppies are sold without having been microchipped
- puppies are sold fraudulently as having been microchipped, but the chip is then found not to be present when the purchaser has it scanned by their vet

R42. It is recommended that the Microchipping of Dogs (Wales) Regulations 2015 undergo urgent review as non-compliance is closely linked with issues within the dog breeding industry in Wales.

²² Data from the Dog Breeding Review Task and finish Group Survey of Puppy Owners

R43. It is recommended that Welsh Government and all LAs meet with database providers to discuss ways of data sharing that could facilitate the automatic notification of LAs regarding suspected breaches of either the Microchipping or the Dog Breeding regulations.

R44. It is recommended that there should be a requirement for all approved databases to have the ability to passively detect the number of dogs below the age of eight weeks, and their dates of birth, registered in a rolling twelve month period by any individual owner, and that they should be a required to release this information to LAs if a suspected breeding offence has occurred. This would work in a similar way to automated notification when livestock keeper enters an illegal livestock movement on to a livestock movement database. This would allow the automatic detection of illegally unlicensed breeders who try to register greater than two litters in 12 months.

R45. It is recommended that the process of microchip registration for dogs should be modified to achieve greater compliance with the microchipping legislation. There should be an additional requirement for every microchip database to ask every microchip registrant whether they are the breeder of the dog. Currently, database users can either actively select the option of being the breeder, and be offered the questions for breeders, or passively continue the registration process as a non-breeder by not selecting this option, even if their dog's microchip has never been registered before. If every user is asked whether they are the breeder, those selecting "not the breeder", should find their dog's microchip has already been registered by the breeder, according to the legislation, and should only have to change the ownership details. If the microchip has never been registered, this would indicate a suspected breach of the legislation by the breeder. This could trigger an additional, compulsory requirement to enter the breeder details before the database will allow the chip to be registered in the new owner's name. It could also trigger automatic notification of the LA that a suspected breach of microchipping legislation has been committed by that breeder. For those selecting the "breeder" option, the breeder licence number (or registration number, in the future), and LA, should then be required in order to proceed normally with microchip registration.

R46. There should be a requirement for database providers to alert LAs to all cases where microchips are first registered by someone other than the breeder, as this indicates non-compliance with microchipping regulations.

Breeder Registration Scheme and Wales Dog Breeder Database

R5, R6. As stated previously, it is recommended that there should be a system of registration of all breeders including those producing less than three litters in twelve months, combined with full licensing for those producing three or more litters. This should be implemented in conjunction with the introduction of a legal requirement to display the breeder registration number on any form of puppy advertisement. This registration scheme could be facilitated by the creation of a Wales Database of Dog Breeders, where breeders complete online registration in order to receive their registration number. Details should include their name, address and LA.

The microchip number for the breeding bitch of each planned litter should be entered to “create” the litter. Once known, the date of birth, breed or type of litter, number of puppies and the microchip details of each pup, could be added. Those identified as non-compliant within a specified time frame should have their registration number inactivated until they achieve compliance, by entering the required information.

There should be two levels of access to the database, full access for LAs and limited access for prospective purchasers. The entering of a breeder registration number from a puppy advert into the database would confirm the registration validity, and access information on the breed, size and date of birth of litters registered to that number. It is important that personal information related to the breeder, such as name or address, is not accessible by the public, for reasons of both GDPR and risk of puppy theft. The database search would provide reassurance for purchasers that they are purchasing from a legal source. Information yielded on the number of litters registered to a particular breeder may inform their buying choices. The entering of a false or inactivated registration number could trigger a facility on the database for purchasers to alert LAs to a suspected illegal breeder. An automatic notification could alert authorities if an attempt is made to register more than six litters from one bitch, or more than two litters in twelve months from an unlicensed breeder. This system would therefore be self-governing and maintenance costs could be fully cost recoverable via a breeder registration fee payable online when setting up a breeder account, and a fee for the addition of each litter. The scheme could collate valuable data for enforcement purposes as well as decreasing the attraction of illegal dog breeding for those with criminal intent by improving visibility and traceability of the industry.

R47. If a registration scheme was instigated, full traceability of all puppies, not just those from licenced breeding establishments, could be facilitated by the addition of the following wording (in bold type) to the microchipping regulations:

c) if the keeper is the breeder and is licensed by the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 (7)—

i) the breeder’s licence number; and

ii) the name of the LA by which they are licensed;

d) if the breeder is not licensed by the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014,

i) the breeder’s breeder registration number

ii) the name of the LA by which they are registered

R7. As stated previously, the goal for canine identification should be a Single Central Canine Database for collation of all microchip registrations. The Central Canine Database should have the ability to generate notifications to LAs of puppies whose microchips are first registered by someone other than the breeder.

It concerning that whilst centralised, single databases (either UK-wide or national with the ability to share data with other UK nations) for multiple other species are already in existence or are in the planning stages, canine databases have significantly multiplied and decentralised during the same time period. The Central Equine Database managed on behalf of DEFRA by Equine Register²³ is an example of good practice that could be learned from. The Central Equine Database gathers data and collates it from all the UK equine passport issuing organisations.

²³ <https://www.equineregister.co.uk/home>

Full traceability means that the scanning of a dog's microchip by an authority could provide information from the dog's date of birth and name of breeder, through every change of ownership until the animal is declared deceased on a database. If this were achieved, then enforcement would be made easier and less costly. Illegal breeding, illegal sales or illegal importation would all be more easily identified. It would also provide a clear means for prospective purchasers to identify that a puppy comes from a legitimate source, which is currently not easy to ascertain.

8.2 Accredited or graded systems for dog breeders

There are many sources from which dogs may be acquired:

legally unlicensed UK breeders

illegally unlicensed UK breeders

licensed UK breeders

third party dealers

licensed pet shops

imported from non-UK breeders

imported from outside the UK by rescue organisations

acquired through UK rescue or re-homing organisations

acquired through private re-homing arrangements

This can be a confusing landscape for a prospective owner to navigate. On top of which the adage "you get what you pay for" does not seem to apply to the sale of puppies, where certain popular breeds or coat colours with inherent health issues can command much higher prices than healthy, well-bred examples of less popular breeds or less rare coat colours. Price does not therefore give any guarantee of health or quality.

Negative media portrayals of large-scale, licensed breeders may push prospective purchasers towards home breeders, who they perceive as more welfare friendly. Unlicensed breeders however can vary dramatically in their welfare standards. The legally unlicensed category of dog breeders ranges from knowledgeable, experienced breeders breeding a small number of health tested, high quality litters, to individuals who wish to have one litter from a pet for sentimental or financial reasons, but lack awareness about their suitability for breeding purposes.

The illegally unlicensed category also ranges widely from small backyard breeders producing more than two litters per year for financial gain, to organised criminal gangs selling puppies bred or imported from multiple sites. There is currently a lack of clear signposting in order to help guide prospective purchasers through the buying process.

There are educational schemes such as The Puppy Contract²⁴ (a joint initiative between the British Veterinary Association and animal welfare NGOs) and other Government and NGO campaigns to encourage responsible buying behaviour, but when it comes to actually recognising the warning signs of a poor breeding establishment, be they puppy health related or situational, prospective owners can find it difficult. In addition to this is the emotional ‘pull factor’ of a bad welfare situation. Very often, prospective purchasers who do recognise warning signs or poor physical condition in a puppy will still take, and pay for, the animal in order to remove it from what they see is a bad situation. They often view this as a ‘rescue’ rather than a purchase, despite the financial transaction. Sellers are aware of this and can be surprisingly honest regarding even severe health issues in puppies for sale, in the knowledge this can increase the emotional pull towards the animal and will not reduce its saleability. This in turn reduces the incentive improve the genetic quality of their stock.

Many stakeholders were interested in the concept of earned recognition and accreditation of breeding establishments. The benefits of this would be three-fold. Firstly, highlighting those breeding establishments with the highest standards of health and welfare perspective would help prospective purchasers to make informed buying decisions. Secondly, encouraging breeders to aim for higher level accreditation can increase their animal health and welfare standards. Thirdly, if such a scheme was to be industry-led, it may also alleviate some enforcement and resource pressure from LAs, by encouraging a carrot rather than stick approach.

There are some examples of successful accreditation schemes already in use. The Kennel Club Accredited Breeders scheme has around 4000 members, the Scottish Society for the Prevention of Cruelty to Animals Assured Puppy Breeder Scheme launched in November 2019, and Carmarthenshire LA is currently in the process of launching its own “Buy with Confidence” scheme and has 18 breeders ready to enter the scheme.

Conversely, some stakeholders hold legitimate concerns that creating a multi-level scheme detracts from the more pressing objective of making sure that all licensed breeders are meeting the minimum Licence Conditions and the overall objective of producing healthy, well socialised puppies that have a good quality of life at the establishment and the ability to adapt to a home environment. There were also concerns that having a tiered system de-incentivises improvement for those that have just reached the bottom rung of the next level.

There are several ways in which such a scheme could operate. One suggestion is a parallel system to the licensing scheme, where breeders could attain different levels of accreditation for example a rating of one to five stars, or a bronze, silver or gold award. An alternative would be for breeders to be given a score by the LA based on the existing inspections, similar to a food hygiene rating.

²⁴ <https://puppycontract.org.uk/about-us>

R48. A scoring system by LAs should be considered in the future, based purely on existing licensing inspections. This would be less onerous than trying to introduce a parallel system. Every aspect of the inspection could be allocated a score that was weighted within a formula depending on the importance of the particular element, then put together to give a total breeder score, for example out of 100. This does not de-incentivise improvement, and LA officers may find a transparent scoring system helpful when discussing standards with breeders. If a Wales Database of Dog Breeders was introduced, the breeder score could be displayed on the register. It is important that a consistency of current approach is achieved by all LAs prior to the consideration of such a system in the future. For those breeders who wish to pursue a higher standard of accreditation, then enrolment into independent schemes such as the Kennel Club scheme would remain an option.

8.3 The retirement of breeding dogs

Licensing condition number 4 on 'Mating', states:

*'The licence holder must ensure a breeding bitch—
is not mated until she is 12 months old;
does not give birth to more than 1 litter of puppies in a 12-month period; and
does not give birth to more than 6 litters of puppies in total.'*

A bitch could therefore breed the maximum number of litters and still only be six years of age at retirement. It is possible for a bitch to become pregnant well after this age, so one of the important reasons for having a retirement plan in place is that breeding animals will not be used again for breeding purposes by a new owner. The only way of absolutely ensuring the prevention of further pregnancies is to neuter breeding animals prior to re-homing.

R49. It should be recommended in the Guidance for LAs that the retirement plan should include neutering by the breeder's veterinary surgeon, of ex-breeding animals, and that this should occur prior to re-homing. The date of neutering should be recorded. Bitches who have bred multiple litters are also at an increased risk of pyometra (infection of the uterus, which can be life-threatening), which is prevented by neutering.

Point 4.7 of the Guidance, 'strategy for the retirement of breeding bitches and stud dogs' states:

'LAs should consider the licence holders strategy for dealing with retired dogs including means of disposal and/or methods of re-homing that ensures the welfare of the dog as far as possible.'

Small dogs (under 10 kg) have an average lifespan of 11 years, whilst very large dogs (over 40 kg) have an average lifespan of 8 years.²⁵ This means that on average a dog could live for two to five more years after having a maximum of six litters, at a maximum frequency of one per year. Dogs that have fewer litters, whether due to breeder choice or breeding problems, could have a much longer potential lifespan after they stop breeding.

A very large number of retired breeding dogs in Wales are currently being re-homed through a single welfare organisation that takes on ownership of the dogs, neuters them, with the aim of rehabilitating and re-homing them. Many of these dogs will be poorly socialised and poorly adapted to life outside of the kennel environment. The lack of traceability of ex-breeding dogs following retirement means that there is little outcomes-based evidence as to what the successful re-homing prospects are for them. The approach of the industry relying on welfare organisations for the retirement care of breeding stock is unsustainable and does not encourage the breeding industry to take lifetime responsibility for the welfare of animals in their care.

R50. As recommended previously, a Wales Database of Dog Breeders, would improve traceability of all dogs, including retired breeding dogs. If the licensed (or registered) breeder was required to complete online registration details of the microchip number for the breeding bitch of each litter, together with the date of birth, litter size and the microchip details of each pup, in every litter, then any LA that scanned a bitch's microchip in the future could have access to her previous breeding record. The database could also trigger an automatic notification to LAs if there is an attempt to register a seventh litter from any bitch, or a litter from a bitch that has been declared as "unfit to breed" at a licensed premises. There should be a requirement for LAs to permanently record all animals declared unfit to breed at the veterinary inspection, on the breeder database.

8.4 Heritable traits associated with poor health and welfare

Many of the common health problems seen in dogs can be inherited. Some of these conditions are extremely common in certain breeds. Examples include hip dysplasia (common in Labrador retrievers and certain other breeds) Brachycephalic Obstructive Airway Syndrome (a syndrome of conformational features that cause the breathing problems seen in brachycephalic or short-muzzled breeds such as pugs and bulldogs) or Intervertebral Disc Disease (common in long-spined breeds such as Dachshunds).

Breeding from animals known to exhibit or to carry such traits is very likely to lead to poor health and welfare in their offspring and should therefore be avoided. In recent years, certain dog breeds have become fashionable, causing them to be bred in very large numbers in a short space of time, accelerating the development of those breed-related characteristics that impact negatively on health and welfare.

²⁵ State of Pet Health 2013 Report, Banfield Pet Hospital

All breeders have an animal health and welfare responsibility to select only examples of the breed with good health and welfare potential from which to breed. Veterinary surgeons are best placed to offer advice on heritable health issues. There are also many types of health testing available which should be utilised in order to predict which animals are likely to be predisposed to developing or passing on a particular health condition and should therefore not be bred from.

R24. As previously stated, consideration should be given to which veterinary role is best placed to perform the “Fitness to Breed” examination. Consideration should be given to passing this role to the LA appointed inspecting vet at the annual inspection, as is the case with the examination of equines during Riding Establishment inspections. The separation of the private vet and inspecting vet roles will allow these roles to be carried out without conflict of interest and where necessary in consultation with each other.

R12. As previously recommended, Licence Condition 3 could be enhanced by the addition of a requirement to have a written health and welfare plan for the breeding establishment agreed with, and reviewed annually by, the private veterinary surgeon, and made available at the time of the inspection. The sentence ‘The licence holder must take all reasonable steps to protect dogs from pain, suffering, injury and disease.’ should be followed by the additional sentence ‘These must include a selection process for breeding stock that avoids the use of breeding animals that possess heritable physical traits that may impact negatively upon the health or welfare of future generations, for example poor or exaggerated conformational traits.’

R51. The Health and Welfare Plan drawn up in conjunction with the private veterinary surgeon and reviewed annually, should include a “breeding for improved health” plan. This should aim to reduce any hereditary issues seen within the breeding stock and include any appropriate health testing. This requirement should be described in Licence Condition 3 and in the Guidance.

8.5 Vaccination

Several veterinary stakeholders highlighted inconsistencies in the way that vaccines are being prescribed.

It is advised that all breeding stock are vaccinated against Canine Distemper, Infectious Canine Hepatitis, Canine Parvovirus, Leptospirosis and, where appropriate, Kennel Cough. The vaccination protocol would usually consist of a primary vaccination course followed by boosters at specified time intervals, in accordance with the manufacturer’s data sheet recommendations.

The World Small Animal Veterinary Association Vaccination Guidelines²⁶ recommend that puppies receive an initial vaccination at 6–8 weeks of age, then vaccinations every 2–4 weeks until 16 weeks of age or older. In practice, most UK puppies will only receive 2 or 3 doses of vaccination during those 16 weeks.

²⁶ <https://www.wsava.org/Global-Guidelines/Vaccination-Guidelines>

Breeders often give a first vaccination dose at eight weeks immediately prior to sale which is inadvisable as this is a stressful time for a puppy, and it is not a beneficial practice in immunological terms since a first vaccine dose will not provide any immediate immunity. Clinically it may be more logical to administer a first dose at six to seven weeks, which is a time of less stress, and may elicit some degree of immune response by the time of sale, although most of the immune response to vaccination occurs following the second dose.

Purchasers often know to ask whether a puppy has been vaccinated. For this reason, and to help reduce the risk of infectious disease outbreaks within the breeding establishment, breeders often wish to give the first vaccination before sale (although as explained above they don't necessarily do this at the most appropriate time). In some cases, vets will dispense these vaccines, for their breeder clients to administer to a specific group of animals, for example to breeding bitches or to a litter of puppies, rather than the vaccination being administered by the vet. It is perfectly legal for a veterinary surgeon to prescribe a vaccination for an animal or group of animals under their care, for the owner to administer, and is common practice in the management of farm animals.

However, any vaccine prescribed for administration other than by a vet (or veterinary nurse under their direction) cannot be certified. Therefore, vaccines administered by breeders to their own dogs are not certified (do not carry a veterinary stamp and signature) and therefore do not amount to proof of vaccination.

It is also reported that there is variation between veterinary practices as to whether they require a microchip to be implanted before giving a first vaccine. Implantation or scanning of a microchip before giving a vaccine allows accurate identification and recording of which puppies within a litter or within a breeding establishment have received that vaccination.

R52. It is recommended that the veterinary health plan, agreed with the vet and the breeder and reviewed annually, includes additional information on supply and administration of vaccines, as well as the types and schedule of vaccination. It is recommended that these additional requirements are added to the Guidance.

The following paragraph could be included in the health plan:

'all vaccinations are to be administered by a vet and vaccination cards provided with the animal identification including the microchip number. Cards should be signed and stamped by the vet at each vaccination. All puppies should be microchipped prior to receiving any vaccinations. If there is a health reason for being unable to meet these requirements, it should be recorded on a veterinary certificate. The microchip details plus the vaccination record card, or a veterinary exemption certificate, must be provided to the purchaser on collection of the puppy.'

R53. It is recommended that the UK veterinary professional bodies and associations discourage the practice of vets dispensing vaccinations to establishments breeding dogs or cats for sale, and encourage them to have in place a policy that all dogs should have a microchip inserted and scanned prior to the administration of any vaccination where possible.

8.6 Consideration of other parts of the supply chain, including third party sales

At present various organisations carry out annual surveys on dog ownership and give estimates of around 9 million dogs in the UK.¹ This means that 750,000 replacement dogs are required, annually, in the UK to maintain this population. The Kennel Club registers 280,000 puppies annually in the UK out of this 750,000. In Wales the estimate of the dog population is 650,000 animals. This means that each year 54,000 puppies are needed to replace the Welsh dog population. Of these, 25,000 are registered by the Kennel Club, who estimate that this is around a half to one third of the total number of puppies produced annually in Wales.

As stated in 6.2, there are many sources from which dogs may be acquired:

legally unlicensed UK breeders

illegally unlicensed UK breeders

licensed UK breeders

third party dealers

licensed pet shops

imported from non-UK breeders

imported from the outside the UK by rescue organisations

acquired through UK rescue or re-homing organisations

acquired through private re-homing arrangements

When considering the dog supply chain in Wales, it is important to look at UK figures, as some dogs bred in Wales may supply other parts of the UK. It can be estimated, based on the number and size of licensed breeding establishments in Wales, that there are 4000-5000 breeding bitches.²⁷ If these breeding animals produce an average of 1 litter of 4 to 5 puppies per year, then there are at least 16,000, and possibly as many as 25,000, puppies coming from licensed breeding establishments in Wales per year. This is a small percentage of the 750,000 replacement dogs required in the UK annually, at 2-3%. In other words, it is likely that more than 95% of the UK replacement dog population per year, does not come from licensed dog breeding establishments in Wales, which is an important fact to consider when putting the scale of the industry into perspective.

R54. It is essential that impact assessment should be carried out on the potential effects of any proposed legislative or enforcement changes on different parts of the UK dog supply chain, including effects on animal welfare.

This report is written at a time when multiple factors may be impacting upon different aspects of the supply chain. Overall, demand is likely to continue to increase, as dog ownership continues to be portrayed in all forms of media as a desirable and an achievable aspiration for all, regardless of circumstances or lifestyle.

²⁷ Data from the Dog Breeding Review Task and Finish Group Survey of Local Authorities December 2019

The supply of dogs occurs in response to public demand, which has increased in recent years and continues to increase. There has been a consequent increase in the numbers of dogs being surrendered to re-homing organisations, and privately re-homed, with an estimated 130,000 dogs entering UK re-homing charities every year. This suggests that a proportion of the increased demand for dogs may stem from poor buying decisions. Therefore, educational initiatives for prospective dog owners (such as the Welsh Government's recent PawsPreventProtect campaign, or The Puppy Contract), may reduce part of the increase in demand, by preventing some of those poorly planned purchases that would have later resulted in the dog being surrendered for re-homing.

In recent years there has been a sharp rise in the number of dogs imported into the UK for adoption by rescue organisations. Reasons for adopting an imported rescue dog include the desire to remove the dog from a poor welfare situation, and the less stringent criteria that often need to be met for prospective adopters, when compared with those of UK re-homing organisations. Often the importing organisation will provide a background story of the dog's previous situation which increases the emotional pull factor on prospective adopters, although the validity of these claims can be hard to determine, and some organisations command very substantial re-homing fees. The UK veterinary profession has serious concerns regarding the health status of these dogs, as cases of exotic diseases have become more frequent in the imported UK dog population, such as heartworm and leishmaniasis.

Almost all imported dogs, both from breeders and rescue organisations, are currently entering the UK using the Pet Travel Scheme. They are technically a commercial import and legally should only enter under the Balai trade directive. Any tightening of enforcement at the border following EU exit could potentially reduce this trade. The future of the Pet Travel Scheme following EU exit is also not clear.

Dogs that are relinquished for re-homing due to socialisation and behavioural issues, are taking up many places in re-homing centres, due to their increased rehabilitation requirements, and a lack of suitable homes for them to go in to due to their ongoing needs. This can reduce the number of dogs that an organisation is able to re-home due to increased turnaround time.

Many of the recommendations outlined previously in this report, refer to measures to identify that potential 75% of Welsh breeders above the licensing threshold, who remain 'illegally unlicensed'. Many of these may have ignored the legislative requirements for cost reasons and would therefore stop breeding rather than becoming licensed if their illegal breeding activity was detected. Given the numbers potentially involved in this category, in the whole of the UK, increased levels of enforcement could have a large impact on the available supply of puppies. Whilst this is something to bear in mind, it must not detract from our very strong recommendation that enforcement measures should focus on detecting these illegally unlicensed breeders and bring them within the law, so that their standards of animal welfare can be monitored.

Some recommendations made in this report, particularly those referring to improved staff to dog ratios, more robust socialisation and enrichment plans, and changes to licensing fees to account for increased enforcement, will come at a financial cost to licensed breeding establishments. While it is hoped that breeding establishments will endeavour to improve animal health and welfare standards, others may be unable to meet these increased costs and may therefore choose not to renew their licence. This could also have an impact on the supply chain.

Other recommendations made in this report, such as the registration of all litters bred in Wales, will impact upon those small-scale breeders who are legally unlicensed, breeding below the licensable threshold of litters. Whilst some of these may be breeding a one-off litter from a favourite pet, the group also contains large numbers of breeders of high-quality dogs who breed as a hobby. It is important that any measures affecting those who breed high quality dogs on a non-commercial basis should not reduce the number of quality animals produced in high welfare conditions.

The Welsh Government has recently consulted on the Third Party Sales of Puppies and Kittens. Evidence from stakeholders indicates that the existence of a guaranteed trade in puppies to third party sellers of dogs is a driving force for some of the largest scale breeding units in Wales. Stakeholders also identified a link between the use of third party sellers by breeders, and poor welfare conditions and inadequate socialisation and enrichment programmes at their breeding establishments. This may be due to breeders not having contact with the end purchaser of puppies they produce and therefore having less incentive to improve standards.

R55. For these reasons, the Group would strongly support a ban on Third Party Sales of Dogs.

There are however also concerns that such a ban could lead to increased transportation of pregnant bitches instead of puppies. Measures should be considered to prevent illegal transportation in late pregnancy. Once again, impact analysis of the supply and demand chain must be considered.

Some Animal Welfare NGOs take a stance against all forms of dog breeding, in the spirit of encouraging adoption of re-homed dogs instead of the purchase of a puppy. However, it is clear from the above discussion that whilst educational measures can be taken to reduce demand for puppies from those who may not have considered the full implications of dog ownership, many dogs will still need to be bred to meet an increasing demand that cannot, and does not wish to be, met through rescue or re-homing alone. It is therefore important to discuss, and develop an evidence-based view on, where and how these dogs should be bred in order to supply that demand whilst maintaining high standards of health and welfare. Increased awareness and transparency of the supply chain and the choices for acquiring a dog and the championing of good breeding practices can only be good for dog welfare in the long term.

Part 9. Summary of findings and recommendations

The aims of this review of the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, were to consider and report on the existing provisions and whether amendments to these are necessary to improve the welfare of breeding dogs in Wales, and to consider whether additional provisions are necessary.

The review has encompassed both the physical and behavioural aspects of welfare associated with the breeding and sale of dogs, taking in to account the negative outcomes for dog and owner welfare that can occur as a consequence of inadequate puppy environmental enrichment and socialisation. The review has been conducted with a collaborative approach, based on evidence provided by a broad spectrum of relevant stakeholders. It has focussed on outcomes, making a number of practical recommendations for improving the effectiveness of the Regulations and their enforcement. Stakeholders included LAs, veterinary surgeons performing a variety of roles, representatives of the animal welfare and dog breeding sector, and puppy owners.

The role of dog breeding in Wales within the context of the UK system of demand and supply of dogs was discussed. It was estimated that the UK requires 750,000 dogs per year in replacement numbers to maintain the dog population, and that licensed premises in Wales supply 16,000-25,000 of these dogs, with 54,000 required to replace the Welsh dog population. Issues were identified with all parts of the supply trade in Wales, including licensed breeding establishments, legally unlicensed breeding establishments, and those which are illegally unlicensed. The scale of the licensed dog breeding industry in Wales was analysed. There are 260 establishments currently licensed, 3 with more than 100 breeding bitches, and the largest number of breeding bitches on a single establishment was 145. These establishments exist primarily as a business to supply a large UK demand for family pet dogs.

The two objectives of a robust legislation and enforcement system were identified:

- To ensure that breeding dogs and their puppies in Wales have good health and welfare and a good quality of life.
- To ensure that puppies bred in Wales receive adequate enrichment and socialisation programmes to equip them with the social and behavioural skills necessary to adapt to a home environment and live a good quality of life in the future.

The consequences for inadequately socialised puppies, were identified as poor mental and behavioural welfare, with an increased risk of developing undesirable behaviours and being re-homed or euthanised in the future. Examples of these behaviours include aggression towards people or other dogs, inappropriate urination and defaecation, separation anxiety, continuous periods of barking, and destructive behaviour in the home.

It is estimated that 130,000 dogs per year will end up in UK rescue organisations. Many will be difficult to rehabilitate and re-home, requiring a more lengthy and costly rehabilitation process, due to their behavioural and socialisation issues. It was concluded that an important aspect of effective regulation of dog breeding, and its enforcement, is to ensure that a greater number of puppies remain with their initial purchaser for life.

All stakeholders were in agreement that the current combination of regulation, licence conditions, guidance, implementation and enforcement were not meeting the two objectives described above. It was therefore concluded that recommendations for improvement were necessary.

9.1 Recommendations for changes to the Qualifying Conditions

The Qualifying Conditions (those required to be met prior to applying for a dog breeding licence) were examined, and the following recommendations made:

R1. The wording of section 5 of the Regulations should be changed so as to be clear that anyone selling or advertising more three or more litters in a 12 month period should fall within the scope of the legislation. An individual should not be able to breed more than two litters in 12 months without a licence, even if those litters are at multiple premises.

R2. The breeding licence, and the licensable threshold for the number of litters, should apply to an individual rather than a premises and there should be a limit of one licence in operation on one premises. In other words, two people cannot be licensed at the same premises, and one individual cannot hold two licences at different premises.

R3. The activity of breeding three or more litters on a premises should become licensable, regardless of whether the breeding animals are owned by the same person.

Stakeholders agreed that identification of illegally breeders is a priority. The potential risk to animal welfare from such breeders is high, given the estimate that 75% of those above the licensable threshold may currently remain unlicensed. Most stakeholders felt that some type of legal recognition of all forms of dog breeding enterprise would be beneficial.

R4. The licensable threshold of breeding three or more litters in a twelve-month period was found to be acceptable, if combined with a system of basic registration for smaller breeders.

R5. A combined system of licensing and registration should be considered. This would incorporate registration for all breeders including those producing less than three litters in twelve months, combined with and full licensing for those producing three or more litters. This should be implemented in conjunction with the introduction of a legal requirement to display the breeder registration number on any form of puppy advertisement.

R6. A Wales Database of Dog Breeders should be considered, in order to facilitate this registration process. Dog breeders would be required to complete registration details of themselves and the breeding bitch in order to receive their registration number and could later add the identification of any offspring produced. There should be two levels of access to the database, full access for LAs and limited access for prospective purchasers. A prospective purchaser could then enter a breeder registration number into the database, confirming the registration number validity and details of litters registered to that number.

R7. It is recommended that the goal for canine identification should be a single Central Canine Database for collation of microchip registrations, accessible to police and LAs, and implemented at either a country or UK level. The Wales Database of Dog Breeders and the Central Canine Database should be integrated. The Central Canine Database should have the ability to generate notifications to LAs of puppies whose microchips are first registered by someone other than the breeder, indicating non-compliance with microchipping regulations. These measures would aid enforcement of the regulations as well as decreasing the attraction of illegal dog breeding for criminal gain by improving visibility and traceability of the industry.

The maximum staff to adult dog ratio of one to twenty was explored. Stakeholders were unanimously of the view that this ratio was insufficient to allow adequate socialisation and exercise programmes of all dogs. Stakeholders with experience of managing large numbers of kennelled dogs considered that after feeding, cleaning of kennels, performing daily health and welfare checks and keeping adequate records for this number of animals, there would be little or no time remaining for other necessary activities such as exercise and puppy socialisation. Example calculations confirmed this, allowing only 16 to 22 minutes per day spent with each breeding animal, even if they had a litter.

R8. An improved staff to adult dog ratio of one full time person to ten dogs should be considered. This ratio would allow for one hour of socialisation and enrichment per litter per day based on an average of three litters present per 20 dogs, as well as 36 minutes per adult dog per day for all other tasks. It was also recommended that LAs should exercise their power to alter this ratio in situations where it was felt insufficient.

R9. Further impact assessment, and examination of the evidence, should be carried out in order to determine whether there would be an animal welfare benefit to capping the number of breeding bitches, and the number of total dogs, housed at a single establishment.

9.2 Recommendations for changes to the Licence Conditions

The following recommendations for changes to the Licence Conditions were made:

R10. Condition 1 could be enhanced by adding a requirement for the enhancement and enrichment plan to have been agreed with the private veterinary surgeon for the breeding establishment, within an annual health plan, as well as approved by the LA.

R11. Condition 2 should state that the socialisation plan must be agreed with the private veterinary surgeon within the annually reviewed health plan. Its use should be recorded daily in a Puppy Socialisation Record, and must be demonstrated at the time of the inspection.

R12. Condition 3 should include a requirement to have a written health and welfare plan, agreed with the private veterinary surgeon, reviewed annually and made available at the time of the inspection. This condition should also list the main requirements of the health plan. It should also include a requirement for every breeding animal to receive an annual veterinary examination for “fitness to breed”.

R13. The Group was not presented with any evidence to warrant changing Condition 4 which states that the minimum age of first mating must be 12 months. This minimum age should remain unless new evidence comes to light.

R14. Condition 6 should contain an additional requirement to record the transfer of ownership details, including the identity of the new owner, or euthanasia details including the name of the veterinary practice, of all ex- breeding animals.

R15. Condition 7 should contain a requirement to retain records of the microchip registration details for each puppy for three years, and provide these to the LA inspector during the inspection. It should also include an additional requirement that all puppies bred in licensed breeding establishments receive a recorded veterinary health examination, prior to sale.

9.3 Recommendations for changes to the Guidance for LAs

The Guidance was considered to be comprehensive and should be adopted consistently as the basis for all LAs’ Model licence Conditions and breeding establishment inspections.

R16. Prior to this, it is recommended that the detail within the Guidance document is revised with input from veterinary surgeons with relevant expert, to ensure that it contains all the necessary information.

Provision of Veterinary Care

All stakeholders identified issues of inconsistency within the current system for veterinary supervision of breeding premises. One issue was a perceived conflict of interest between the role of the private veterinary surgeon, who must act on behalf of their breeder client, and the role of the inspecting veterinary surgeon, who is acting on behalf of the LA in an official capacity.

R17. The role of the private veterinary surgeon, and that of the inspecting veterinary surgeon, should be clearly separated. A panel of vets with expertise in the inspection of dog breeding establishments should be created within Wales. Inspecting vets should be independent and should not inspect clients' premises.

R18. Training should be provided for vets undertaking a breeding establishment inspection role, with an independent body, and should be valid for five years.

R19. Private veterinary surgeons should take on a proactive, health planning role in breeding establishments, equivalent to the role of a farm vet in health planning. They should create a health and welfare plan, that includes the required socialisation and enrichment plan, for each breeding establishment, and this health plan should be reviewed annually.

R20. Private veterinary surgeons named on breeding licences should have a requirement to undergo training in health planning for breeding establishments. The inspecting vet panel could assist in devising a suitable short health planning course and health plan template. The different veterinary roles could in this way be interlinked to create a consistent and collaborative approach.

R21. It should be clearly stated within the Guidance, that all breeding animals must receive an annual health examination from a veterinary surgeon, that must be recorded.

R22. It should also be clearly stated within the Guidance, that all puppies must receive a veterinary health examination prior to sale, that must be recorded.

R23. The costs of health planning should be met by the breeding establishment, and the costs of the inspecting vet should be met by an appropriate increase in the licensing fees.

R24. Consideration should be given to which veterinary role is best placed to perform the "Fitness to Breed" examination. Consideration should be given to passing this role to the LA appointed inspecting vet at the annual inspection.

Minimum Enclosure Sizes

Several stakeholders recommended that the guidance on dog accommodation should be updated.

R25. The guidance on accommodation (sizing and layout) and exercise provision should be revised. A single set of enclosure sizes should be used in the Guidance, and these should be relative to actual dog length and height measurements, for greater clarity. The wording should also be reviewed around the using of crating for dogs in the home.

9.4 Recommendations for enforcement of the Regulations

Multiple stakeholders cited barriers to effective enforcement of the current regulations as their main concern with the dog breeding Regulations. These included lack of LA funding and resources, lack of specific knowledge regarding breeding establishments and legal difficulties in successfully revoking licences or pursuing criminal prosecutions.

Identification of illegal breeders

R26. After five years of implementation of the Regulations, the expected numbers of breeders producing more than the licensable threshold of two litters in 12 months, have not brought themselves forward voluntarily for licensing. Increased levels of enforcement are therefore warranted to identify these breeders and bring them within the law.

The proposed Wales Database of Dog Breeders, together with a requirement to display the registration number on advertising, would assist with the passive detection of illegal breeding practices, as would a Central Canine Database.

R27. Funding should be provided for the formation of a shared team of staff from different LAs with the purpose of identification of illegal dog breeding activities. This would reduce the resource burden on individual authorities and allow information sharing. The Proceeds of Crime Act could be utilised for provision of ongoing funding.

Specific training for officers

Evidence was provided to suggest that there are licensed establishments in Wales where dogs are being kept in less than adequate conditions. There are two aspects to providing a suitable environment for puppy breeding and rearing. Firstly, all dogs must have their five basic welfare needs met at all times. Secondly, puppies also need effective enrichment and socialisation programmes in order to adapt successfully to a home environment after purchase. Whilst there may be a minority of establishments that fail to meet their dogs' basic needs, there is likely to be a higher number of breeders who lack an understanding of the importance of canine enrichment and socialisation programmes. LA officers may also find it difficult to inspect the implementation of these programmes without specific training.

R28. It is recommended that LA inspectors receive specific training in the physical, socialisation and enrichment aspects of dog breeding establishments. This should include visiting an example of good practice in terms of socialisation and enrichment programmes.

R29. A panel of trained dog breeding licensing inspectors who could undertake all breeding establishment licence inspections in Wales, should be created.

R30. The first inspection of a breeding establishment should always be carried out by a LA appointed inspector in conjunction with their appointed independent veterinary surgeon. This collaboration would enable knowledge sharing and ensure that similar advice is being offered by both veterinary and LA inspectors.

Improvement of enrichment and socialisation provisions

Stakeholders recognised the need for effective puppy socialisation, and some considered this one of the most important aspects of the dog breeding regulations. There is a lack of clear evidence as to whether adequate socialisation can ever be achieved within large-scale breeding establishments.

R31. The guidance on enrichment and socialisation for puppies should be updated and made more detailed and focussed on outcomes. The Welsh Government template socialisation and enrichment plan documents should be updated to record the demonstration of each activity during the inspection. The Guidance should include a requirement for the enrichment and socialisation plans to be demonstrated at the time of inspection.

R32. The Guidance should recommend the inspection of licensed breeding establishments at least twice per year and that one of these inspections should be unannounced.

Consistency of approach

Many stakeholders, including representatives from LAs, agreed that a more uniform approach to enforcement of the Regulations across regions would make the task easier and more effective. A Wales Database of Dog Breeders and a system of basic registration for all breeders would improve the consistency of approach and information sharing.

R33. The revised Guidance document should be adopted universally by all LAs as the basis of their Model Licence Conditions and the standard against which to perform inspections.

R34. A standardised approach to the setting of licensing fees should be adopted by all LAs. The licensing process should be fully cost recoverable. There should be a higher-level fee for the initial licence period, with subsequent fees based on the number of breeding animals and the number and frequency of inspections required.

R35. The initial assessment of a new dog breeding licence application and the socialisation and enrichment programmes should be undertaken in conjunction with a LA officer who has specific training in inspecting dog breeding establishments.

R36. A consistent approach to inspection intervals should be taken across all LAs. Following the initial licensing inspection, subsequent inspection intervals should be decided using a risk-based approach of earned recognition in order to focus resources on establishments that are considered to be at greatest risk of non-compliance with their licence conditions.

R37. Inspection by an independent LA appointed veterinary surgeon should take place at least once per year at every licensed establishment, in line with the approach used for Riding Establishments. It is also recommended that at least one inspection per year should be carried out by the LA officers, and that that at least one inspection per year should be unannounced. A suggested format for licence renewal could therefore be one announced inspection by the independent appointed veterinary surgeon, plus one unannounced inspection by the LA. Those establishments with issues of compliance may require more frequent inspections until they have consistently demonstrated good practice.

R38. A consistent approach to licensing periods should be adopted. Licensing periods should be decided using a risk-based approach of earned recognition in order to focus resources on premises which are considered to be at greatest risk of non-compliance with their licence conditions. An approach of granting short licence periods is recommended for those licenced establishments that are found to have fallen beneath the required standards in some areas but are actively demonstrating effective improvements, as this allows animal welfare to be closely monitored by authorities, whereas licence revocation does not.

R39. It essential that no steps are taken in response to this report, which increase the financial and time burden on LAs that are already stretched, without making provisions in terms of funding and staffing levels for such steps to be implemented. Such action could conversely create negative animal health and welfare outcomes, by allowing less resources for existing enforcement practices being carried out by LAs.

R40. It is recommended that a Fixed Penalty Notice scheme of “on the spot” fines be introduced for ease of enforcement of minor dog breeding or microchipping regulation offences, as requested by LA stakeholders.

R41. The current lack of legal powers of re-entry for LAs following the refusal or revocation of a breeding licence creates a serious risk to animal welfare. LAs should be granted powers of re-entry for a specified time period following revocation or refusal, in order to inspect the premises and establish whether illegal breeding operations have ceased or are ongoing.

9.5 Additional Recommendations

Microchipping compliance and traceability

All stakeholders agreed that lack of traceability of dogs was a barrier to effective enforcement of the Regulations, and a concern for animal welfare.

R42. It is recommended that the Microchipping of Dogs (Wales) Regulations 2015 undergo urgent review as non-compliance is closely linked with issues within the dog breeding industry in Wales.

R43. It is recommended that Welsh Government and all LAs meet with database providers to discuss ways of data sharing that could facilitate the automatic notification of LAs regarding suspected breaches of both the Microchipping and Dog Breeding regulations and improve compliance with the regulations.

R44. There should be a requirement for all databases to incorporate a function to passively detect the numbers, and dates of birth, of puppies below the age of eight weeks, registered in a rolling twelve month period by any individual owner, and to use this information to inform LAs of suspected breaches of the dog breeding regulations.

R45. A requirement should be introduced for microchip databases to ask every microchip registrant whether they are the breeder of the dog they are registering, to improve compliance with the microchipping regulations.

R46. This should be combined with a requirement for database providers to notify LAs to cases where microchips are first registered by someone other than the breeder, as this may indicate a breach of microchipping legislation by the breeder.

R47. If a registration scheme was instigated, full traceability of all puppies, not just those from licenced breeding establishments, could be facilitated by some additional wording within the microchipping regulations.

Accredited or graded systems for dog breeders

R48. A system of assigning scores to breeding establishments based on existing licensing inspections should be considered. Every aspect of the inspection could be allocated a score that could be combined in a weighted formula to give a total breeder score. Whilst there are advantages to such a system, a more urgent priority is for all licensed establishments to achieve a good standard of animal welfare in accordance with the requirements set out in the Guidance.

The retirement of breeding dogs

The ongoing welfare of dogs following retirement from breeding was a concern for many stakeholders.

R49. The Guidance should state that the retirement plan must include neutering by the breeder's veterinary surgeon of ex-breeding animals, **prior to** re-homing.

R50. The Wales Database of Dog Breeders should include an automated notification to LAs if there is an attempt from a to register a seventh litter from any bitch, or a litter from a bitch that has been declared as unfit to breed at a veterinary inspection. Those animals declared unfit to breed should be permanently recorded as such on the database.

Heritable traits associated with poor health and welfare

Stakeholders emphasised the need for breeders to reduce the levels of hereditary health and welfare issues in dogs through responsible breeding practices.

R51. The Health Plan drawn up in conjunction with the private veterinary surgeon and reviewed annually, should include a “breeding for improved health” plan, aiming to reduce any hereditary issues seen within the breeding stock, as well as any health testing that the veterinary surgeon feels is appropriate. This requirement should be described in Licence Condition 3 and in the Guidance.

Vaccination

Veterinary stakeholders identified inconsistencies in the way in which vaccination programmes were being managed.

R52. The Health Plan, agreed with the vet and the breeder and reviewed annually, should include information on the supply and administration of vaccines as well as the types and schedule of vaccination.

R53. It is recommended that the veterinary professional organisations should discourage the profession from dispensing vaccinations to clients breeding dogs or cats for the purpose of sale, and encourage the practice of all vaccinations being administered and certified by a vet. They should also recommend that practices should adopt a policy that all dogs should have a microchip inserted and scanned prior to the administration of any vaccination where possible.

Consideration of other parts of the supply chain, including third party sales

It should be recognised that any change in one part of the UK dog supply chain may have unintended consequences on the other parts of that supply chain.

R54. It is essential that impact assessment of the effects of proposed legislative or enforcement changes on different parts of the UK dog supply chain should be performed.

R55. The Group strongly supports a ban on third party sales of dogs, following the recent Welsh Government consultation, Third Party Sales of Puppies and Kittens. Evidence from stakeholders indicates that the existence of a guaranteed trade in puppies to third party dealers of dogs is a driving force for some of the largest scale breeding units in Wales. Stakeholders also identified a link between the use of third party sellers by breeders, and poor welfare conditions and inadequate socialisation and enrichment programmes at their breeding establishments. This may be due to breeders not having contact with the end purchaser of the puppies they produce and therefore having a detached view and less incentive to improve standards.

It is clear from this review that whilst educational measures can be taken to reduce demand for puppies from those who may not have considered the full implications of dog ownership, many dogs will still need to be bred in order to meet an increasing demand that cannot, and does not wish to, be met through rescue or re-homing alone. An important, evidence-based discussion therefore needs to be had, on where and how these dogs should be bred in order to supply that demand whilst maintaining the highest standards of animal welfare. Increased awareness and transparency of the supply chain and the championing of good practice can only be good for dog welfare in the long term.

An important aspect of this is continued education of the public on their role and responsibilities in driving the supply chain of dogs, as well as education on the long term financial and lifestyle commitments of dog ownership.

ACKNOWLEDGEMENTS

The Task and finish Group wish to acknowledge all organisations, groups and individuals for their assistance during the process of producing this report, in particular those who travelled to attend meetings.

Annexe I Terms of Reference:

Review of the Animal Welfare (Breeding of Dogs) (Wales)

Regulations 2014

Introduction

1. The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 revoked and replaced the outdated Breeding of Dogs Act 1973 in Wales. The regulations introduced stricter criteria for breeding establishments and established an attendant to adult dog ratio at a minimum of one full time member of staff to 20 adult dogs.
2. The regulations were the first of their kind in the UK and, whilst many welfare organisations and charities had differing views on the contents of the regulations, they were widely welcomed.
3. Following a full years' implementation of the regulations, a survey to capture data on the staff-to-dog ratio and other information on dog breeding was conducted by Local Authorities (LAs) as part of the Partnership Delivery Project with the Welsh Government. The information gathered highlighted some issues with the enforcement aspects of the legislation and possible resource issues within Local Authorities.
4. There have also been ongoing concerns about the standards at some licensed premises which were a reoccurring theme of the responses to the Third Party Sales consultation.
5. In her written statement on 9th October 2019 the Minister for Energy Environment and rural affairs announced a review of the breeding regulations would be undertaken by members of the Wales Animal Health and Welfare Framework group (WAHWFG).

Purpose and objectives

6. To review and make recommendations on the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, with a view to promoting welfare provision for breeding dogs and their offspring in Wales.
7. The review will consider and report on existing provisions and whether amendments are necessary to improve welfare.
8. The review may also consider and report on any relevant, additional provisions necessary to improve the welfare of breeding dogs and their offspring in Wales.
9. The review will encompass both physical and behavioural aspects of welfare associated with the breeding and sale of dogs.

Approach

10. The Wales Animal Health and Welfare Framework Group will establish a Task and Finish Group to undertake the review.
11. The Group will produce a report and make recommendations by the end of December 2019.
12. The report will be sent to the Minister for Environment, Energy and Rural Affairs and to the Chief Veterinary Officer.
13. The Office of the Chief Veterinary Officer will make recommendations to Welsh Government and the Minister for Energy, Environment and Rural Affairs.
14. The report will:
 - Make recommendations, where necessary, for amendments to the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014
 - Make any other recommendations that group think are relevant.

Principles

15. The review will be conducted so that it:
 - Focuses on outcomes
 - Engages relevant stakeholders
 - Is objective and based on evidence
 - Maximises opportunities for integration and collaboration

Composition of the Task and Finish Group

The Task and Finish Group will comprise the following members of the WAHWFG:

- Sarah Carr
- Les Eckford
- Ifan Lloyd

The chairman of the group will be Sarah Carr.

The Task and Finish Group may request individuals to assist with specific aspects of the review.

Secretariat will be provided by Office of the Chief Veterinary Officer.

Annexe II Membership of the Task and Finish Group

Sarah Carr, BVSc MRCVS, VETERINARY SURGEON, WAHWFG MEMBER, GROUP CHAIR

Les Eckford, BVM&S MRCVS, VETERINARY SURGEON, WAHWFG MEMBER

Ifan Lloyd, BSc MA VetMB MRCVS, VETERINARY SURGEON, WAHWFG MEMBER

There are no declared conflicts of interest in the membership of the group.

Annexe III Puppy Socialisation – Example Programme

It is very important that puppies are introduced to as many experiences as possible when they are young. Before 14 weeks puppies react to new experiences with interest and curiosity, wanting to find out more about their new world. After this time, they tend to fear unfamiliar things.

As a vaccination course takes several weeks to take full effect, you can't immediately take them out for a walk and show them everything, but there are plenty of new experiences they can have safely before they are fully vaccinated.

You need to take care not to scare your puppy, but you should not be over-protective either. The best approach is a "jolly hockey-sticks" type approach, something along the lines of "Yes, there's a big scary vacuum cleaner over there, but come and play with this ball," with lots of praise when your puppy does so. If you overprotect, they will become more anxious.

Whilst puppies should not be taken for walks on the road, or the park or anywhere strange dogs could go, until a week after their second vaccination, there are plenty of experiences they can be introduced to without walking. Most puppies are small enough to be carried for several weeks after you get them. Think how many fun new experiences you can share. Don't just wait until after their second vaccination before they leave the house.

People

Dogs should meet as many different types, sizes and shapes of people as possible – adults, children, women, men, men with beards, people with walking sticks, people in hats etc.

When dogs cower away from people, it is more likely to be because they are unfamiliar with that sort of person and not because they have had a bad experience.

Dogs

After the first vaccination, your puppy can meet fully vaccinated dogs at your house or theirs. You should make sure the first dogs your puppy meets are well socialised and not over- confident or aggressive.

Cats, livestock and other pets

Your puppy needs to learn how to be introduced to as many different animals as possible. Many of these species are "prey" species – it is natural for a puppy to want to chase them and he must learn from an early age that this is not acceptable.

To introduce your puppy to a cat, for example, restrain your puppy so he cannot chase the cat and continue until the cat is used to him. Once this stage is complete, introduce your puppy to the cat, without restraint but watch very closely. At the first sign of him wanting to chase it, distract him with a game.

You should also introduce him to horses, sheep, cattle etc. This should be done on a lead, under control and at a distance, to avoid the animal trying to run away. This would only encourage your puppy to chase them.

By being introduced to lots of animals your puppy should eventually think they are boring. Carry a favourite toy with you and if he becomes excited, channel his excitement onto that.

Household Items

Many household appliances can be scary to a dog who has never encountered them before. Try to familiarise him with all the things in the house which make funny noises, such as the whirr of washing machines and the buzz of hairdryers and vacuum cleaners.

Traffic

Traffic includes not only cars, lorries, tractors and so on, but also bicycles. Traffic noises can vary according to the weather, so don't forget to take him out in the rain.

Many dogs are travel sick or anxious in the car. Start with very, very short journeys, or even a stationary car. Keeping calm and relaxed yourself is an important response for your puppy to observe.

You never know when your car may break down, so take your puppy on a trip in a bus or train in case you have to use one.

Different Environments

If you live in a town, take your puppy to the country; if you live in a quiet area, take your puppy to town. A visit to a dog friendly pub, car boot sales or country show offers all sorts of new experiences. You should also make sure they are familiar with grooming parlours, boarding kennels or veterinary surgeries.

If you are experiencing problems with implementing this plan, discuss it as soon as possible with your veterinary surgeon.

A check list is useful to allow you to fully socialise your puppy. Tick the box at every encounter and remember to continue socialising until your puppy is 12 months old.

Before First Vaccine (under 8 weeks)

Men					
Women					
Children (a few at a time)					
Babies					
Elderly people					
Loud/confident people					
Shy/quiet people					
Cats which are part of your household					
Other dogs which are part of your household					
Other domestic pets					
Stairs					
Washing machine					
Vacuum cleaner					
Tumble dryer					
Hair dryer					
Children's toys					
Being alone					
DIY tools					
Travelling in cars					
Wearing a collar					
Veterinary Surgery					

Between First and Second Vaccination (8-11 weeks)

Continue what you started before the first vaccine, but also include the following.

Vehicles – cars, lorries, buses (whilst being carried)					
Bicycles (whilst being carried)					
Children (several e.g. carry past playgrounds or schools)					
Veterinary surgery					
Other people’s houses					
Dogs in their house or yours					
Cats in other houses or garden					
Grooming					
Teeth cleaning					
Examination of eyes, ears, teeth etc					
People wearing hats/helmets					
People wearing glasses					
People in uniform					
Delivery people esp. postman					
People of different ethnic origins					
Bathing					
Walking on the lead in garden					
Men with beards or moustaches					

After Second Vaccination (11 weeks +)

Continue what you started before the first vaccination and between the first and second vaccination, but also include the following

Children (walking through parks/ past schools)					
Veterinary Surgery (coming in for regular nurse clinics)					
Boarding Kennel					
Grooming Parlour					
Pub/party					
Fete/car boot sale					
Public transport					
Walking at roadside					
Park/rural environment					
Town/city					
Cows					
Sheep					
Horses					
Pushchairs					
Wheelchairs					
People with walking sticks					
Puppy/dog training classes					
Walking on the lead outside					
Unknown dogs					

Annexe IV

The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

WELSH STATUTORY INSTRUMENTS

2014 No. 3266 (W. 333) ANIMALS,

WALES

The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014

Made - - - - *10 December 2014*

Coming into force - - - *30 April 2015*

The Welsh Ministers, as the appropriate national authority in relation to Wales⁽¹⁾, make the following Regulations in exercise of the powers conferred by sections 13(2), (7), (8)(e), (10) and Parts 1 and 3 of Schedule 1 to the Animal Welfare Act 2006⁽²⁾.

In accordance with section 13(9) of that Act, the Welsh Ministers have consulted those persons appearing to them to represent interests with which these Regulations are concerned as they considered appropriate.

In accordance with section 61(2) of that Act⁽³⁾, a draft of this instrument has been laid before, and approved by resolution of, the National Assembly for Wales.

PART 1

Introduction

Title, application and commencement

1. —(1) The title of these Regulations is the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.

(2) They apply in relation to Wales and come into force on 30 April 2015.

Repeal of section 1(1) of the Breeding of Dogs Act 1973

2. In section 1 of the Breeding of Dogs Act 1973 (licensing of breeding establishments for dogs), after subsection (1) insert—

“(1A) Subsection (1) does not apply in relation to Wales.”

(1) The appropriate national authority is defined in section 62(1) of the Animal Welfare Act 2006. Functions conferred on the National Assembly for Wales are now vested in the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(2) 2006 c.45.

(3) 2006 c.45 By virtue of section 162 of, and paragraph 34 of Schedule 11 to, the Government of Wales Act 2006 (c.32), the reference in section 61(2) to “House of Parliament” includes the National Assembly for Wales.

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Interpretation

3. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Animal Welfare Act 2006;

“adult dog” (“*ci llawndwf*”) means a dog which is not less than 6 months old;

“breeding bitch” (“*gast fridio*”) means an un-neutered female dog that is not less than 6 months old;

“draft enhancement and enrichment programme” (“*rhaglen wella a chyfoethogi ddrafft*”) means a document detailing how dogs will have the opportunity to express normal behaviour patterns submitted by the applicant to the local authority under regulation 7;

“draft socialisation programme” (“*rhaglen gymdeithasoli ddrafft*”) means a document detailing how puppies will be introduced to human handling, domestic environments, play and how they will be prepared for separation from the dam submitted by the applicant to the local authority under regulation 7;

“enhancement and enrichment programme” (“*rhaglen wella a chyfoethogi*”) means a document approved in writing by the local authority detailing how dogs will have the opportunity to express normal behaviour patterns;

“full-time attendant” (“*gweinydd llawn-amser*”) means a person who works, either paid or unpaid, at least 37 hours per week on the licence holder’s premises;

“inspector” (“*arolygydd*”) means any person who has written authority from a local authority to act in matters arising under or in relation to the Act or these Regulations;

“licence” (“*trwydded*”) means a licence granted under regulation 8;

“licence conditions” (“*amodau trwydded*”) means those conditions set out in Schedule 1 to these Regulations and any further conditions attached to a licence by the local authority;

“local authority” (“*awdurdod lleol*”) means the county council or a county borough council in whose area the applicant for a licence under regulation 7 carries out the activity of dog breeding;

“part-time attendant” (“*gweinydd rhan-amser*”) means a person who works, either paid or unpaid, between 18.5 and 37 hours per week on the licence holder’s premises;

“puppy” (“*ci bach*”) means a dog which is less than 6 months old;

“socialisation programme” (“*rhaglen gymdeithasoli*”) means a document approved in writing by the local authority detailing how puppies will be introduced to human handling, domestic environments, play and how they will be prepared for separation from the dam.

PART 2

Requirement to hold a licence

Licensing of dog breeders

4. Dog breeding is a specified activity, for the purposes of section 13(1) of the Act.

Dog breeding: interpretation

5. —(1) A person carries on the activity of dog breeding for the purposes of section 13(1) of the Act if that person keeps on premises 3 or more breeding bitches and—

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- (a) breeds on those premises 3 or more litters of puppies in any 12 month period;
 - (b) advertises for sale from those premises a puppy or puppies born from 3 or more litters of puppies for sale in any 12 month period;
 - (c) supplies from those premises a puppy or puppies born from 3 or more litters of puppies in any 12 month period; or
 - (d) advertises a business of breeding or selling puppies from those premises.
- (2) For the purposes of paragraph (1) any dog found on premises will be presumed to be kept by the occupier of those premises until the contrary is proved.
- (3) For the purposes of paragraph (1)(a) to (c) it is immaterial whether or not the litters of puppies are bred from the breeding bitches referred to in paragraph (1).
- (4) This regulation is subject to regulation 6.

Dog breeding: exclusion

6. —(1) A person does not carry on the activity of dog breeding for the purposes of section 13(1) of the Act if the dogs mentioned in regulation 5 are bred—
- (a) for use in regulated procedures, and
 - (b) at a place specified in a section 2C licence by virtue of section 2B(2)(b) of the Animals (Scientific Procedures) Act 1986.
- (2) In paragraph (1) “regulated procedure” and “section 2C licence” have the meaning given by section 30 of the Animals (Scientific Procedures) Act 1986.

PART 3

Licences

Application for a licence

7. —(1) To apply for a licence under these Regulations an applicant must submit—
- (a) an application in a form and manner approved by the local authority;
 - (b) a draft enhancement and enrichment programme;
 - (c) a draft socialisation programme;
 - (d) details of the anticipated number of adult dogs and puppies to be present on the premises at any one time; and
 - (e) such supporting documentation as the authority reasonably requires.
- (2) The applicant must pay any appropriate fee in accordance with regulation 12.

Grant or renewal of licences

8. —(1) On receipt of an application complying with regulation 7, a local authority must inspect the applicant’s premises and if satisfied—
- (a) that the licence conditions are or will be met;
 - (b) with the draft enhancement and enrichment programme;
 - (c) with the draft socialisation programme; and
 - (d) as to any other matters the local authority considers relevant; may grant a licence to the applicant.

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- (2) The local authority must attach to each licence granted—
- (a) the conditions contained in Schedule 1 to these Regulations;
 - (b) a condition specifying the maximum number of adult dogs and puppies to be kept under the terms of the licence; and
 - (c) a condition specifying a staff to adult dog ratio which must ensure as a minimum staff requirement—
 - (i) 1 full-time attendant per 20 adult dogs kept; or
 - (ii) 1 part-time attendant per 10 adult dogs kept.
- (3) Subject to paragraph (2) the local authority may also attach further conditions to a licence as it considers necessary.
- (4) The local authority may grant or renew a licence for any period up to 1 year.

Consideration of applications for licences

9. —(1) When considering whether to grant or renew a licence the local authority must be satisfied that—
- (a) dogs are at all times kept in accommodation that is of an appropriate construction and size, with appropriate exercise facilities, temperature, lighting, ventilation and cleanliness;
 - (b) appropriate whelping facilities are available;
 - (c) dogs are supplied with suitable food, drink and bedding; and
 - (d) dogs are supplied with adequate facilities to enable them to exhibit normal behaviour patterns.
- (2) Prior to granting or renewing a licence, in considering whether the licence conditions will be met, a local authority is entitled to take account of the applicant's conduct or any other circumstances that the local authority considers are relevant.

People who may not apply for a licence

10. No person may apply for a licence if they are disqualified under—
- (a) section 33 of the Welfare of Animals Act (Northern Ireland) 2011⁽⁴⁾;
 - (b) section 34 of the Act;
 - (c) section 40(1) and (2) of the Animal Health and Welfare (Scotland) Act 2006⁽⁵⁾;
 - (d) section 33A of the Dogs (Northern Ireland) Order 1983⁽⁶⁾;
 - (e) section 3(3) of the Breeding of Dogs Act 1973⁽⁷⁾ from keeping a breeding establishment;
 - (f) section 4(3) of the Riding Establishments Act 1964 from keeping a riding establishment⁽⁸⁾;
 - (g) section 3(3) of the Animal Boarding Establishments Act 1963 from keeping a boarding establishment⁽⁹⁾;
 - (h) section 1(1) of the Protection of Animals (Amendment) Act 1954 from having custody of an animal⁽¹⁰⁾;

⁽⁴⁾ 2011 c. 16.

⁽⁵⁾ 2006 asp 11.

⁽⁶⁾ 1983/764 (N.I. 8).

⁽⁷⁾ 1973 c.60. Section 3(3) was amended by section 5(1) of the Breeding and Sale of Dogs (Welfare) Act 1999 (c.11).

⁽⁸⁾ 1964 c. 70. Section 4(3) was amended by section 64 of, and paragraph 6(2) of Schedule 3 to, the Animal Welfare Act 2006.

⁽⁹⁾ 1963 c. 43. Section 3(3) was amended by section 64 of, and paragraph 5(2) of Schedule 3 to, the Animal Welfare Act 2006.

⁽¹⁰⁾ 1954 c.40. Section 1 was repealed by section 65 of, and Schedule 4 to, the Animal Welfare Act 2006.

- (i) section 5(3) of the Pet Animals Act 1951 from keeping a pet shop⁽¹¹⁾; or
 - (j) section 6(2) of the Dangerous Wild Animals Act 1976 from the ownership of an animal⁽¹²⁾,
- and any licence issued to a person so disqualified is invalid.

Death of a licence holder

11.—(1) If the licence holder dies that licence is deemed to have been granted to the personal representatives of the licence holder so long as none of the personal representatives is subject to an order for disqualification under any of the provisions set out in regulation 10, and remains in force for a period of 3 months beginning with the date of death, but remains subject to the provisions in Part 3.

(2) The personal representatives must notify the local authority which issued the licence that the licence has vested in them within 4 weeks of the death of the licence holder.

(3) Subject to paragraphs (4) and (5), a local authority may, on the application of those personal representatives, extend the period of 3 months referred to in paragraph (1) if the local authority is satisfied that the extension is necessary for the purpose of winding up the deceased's estate and that no other circumstances make extension undesirable.

(4) Before extending a licence beyond 1 year from the date upon which it was issued, a local authority must inspect the licence holder's premises, and at least once per year thereafter during the period of extension.

(5) No licence may be extended under paragraph (3) beyond 3 years from the date upon which the licence was issued.

Fees

12.—(1) A local authority may charge such fees as it considers necessary—

- (a) for the consideration of an application for a licence; and
- (b) for the grant or renewal of a licence.

(2) The fee charged for consideration of an application for a licence must not exceed the reasonable costs of carrying out that consideration.

(3) The fee charged for granting or renewing a licence must not exceed the sum of the costs of making the grant or renewal and the reasonable anticipated costs of future monitoring of compliance with these Regulations and the licence conditions by the licence holder.

Guidance

13. The local authority must have regard in the carrying out of its functions under these Regulations to such guidance as may be issued by the Welsh Ministers.

PART 4

Suspension, Variation and Revocation of a Licence

Grounds for suspension and variation

14. A local authority may at any time suspend or vary a licence on being satisfied that—

(11) 1951 c.35 Section 5(3) was amended by section 64 of, and paragraph 3(2) of Schedule 3 to, the Animal Welfare Act 2006.

(12) 1976 c.38. Section 6(2) was amended by section 64 of, and paragraph 9 of Schedule 3 to, the Animal Welfare Act 2006.

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- (a) the matters referred to in regulation 9(1)(a) to (d) are not satisfied;
- (b) the licence conditions are not being complied with;
- (c) there has been a breach of these Regulations;
- (d) information supplied by the licence holder is false; or
- (e) it is necessary to protect the welfare of a dog.

Procedure for suspension and variation

15. —(1) A suspension or licence variation under regulation 14 has effect at the end of the period of 7 days beginning with the date of service of the notice of suspension or notice of variation.

(2) If it is necessary to protect the welfare of a dog the local authority may specify in the notice that the suspension or variation has immediate effect.

(3) A notice of suspension or variation must—

- (a) state the local authority's grounds for suspension or variation;
- (b) state when it comes into effect;
- (c) specify measures that the local authority considers are necessary in order to remedy the grounds; and
- (d) explain the right of the licence holder to make written representations in accordance with paragraph (4) and give the details of the person to whom such representations may be made and the date by which they must be made.

(4) Where the notice does not have immediate effect the licence holder may make written representations against the notice to the local authority within 7 days of the date of service of the notice.

(5) Where representations are made under paragraph (4), the suspension or variation does not have effect until the local authority considers the representations and makes a determination on them in accordance with paragraph (6).

(6) The local authority must make a determination on the representations and notify the licence holder in writing, giving its reasons, within 7 days of receipt of those representations.

(7) If a licence has been suspended for more than 28 days the local authority must—

- (a) reinstate that suspended licence; or
- (b) revoke that suspended licence.

Reinstatement of licence

16. —(1) A local authority must reinstate a suspended licence by way of notice once it is satisfied that the grounds specified in the notice of suspension have been or will be remedied.

(2) Where a licence is reinstated under paragraph (1) the period for which it is issued may be varied but the licence may not be extended beyond 1 year from the date upon which it was reinstated.

Grounds for revocation of a licence

17. —(1) The local authority may revoke a licence on being satisfied that—

- (a) the matters referred to in regulation 9(1)(a) to (d) are not satisfied;
- (b) the licence conditions are not being complied with;
- (c) there has been a breach of these Regulations;
- (d) information supplied by the licence holder is false; or

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(e) it is necessary to protect the welfare of a dog.

(2) Where a licence holder is disqualified under any of the enactments listed in regulation 10 their licence is automatically revoked when the time limit for any appeal against that disqualification expires or, if an appeal is made, when that appeal is refused.

Notice of revocation

18. A notice of revocation must—
- (a) state the local authority's grounds for revocation;
 - (b) state when it comes into effect; and
 - (c) set out the right of appeal to a magistrates' court.

PART 5

Appeals

Right of Appeal

19. —(1) Any person who is aggrieved by the refusal to grant or renew, or the decision to revoke, a licence may appeal to a magistrates' court.

(2) The procedure on an appeal to a magistrates' court under paragraph (1) is by way of complaint, and the Magistrates' Courts Act 1980(13) applies to the proceedings.

(3) The period within which an appeal may be brought is 28 days beginning with the day following the date on which the decision is notified.

PART 6

Miscellaneous provisions

Power to take samples

20. An inspector may, for the purposes of ensuring the provisions of these Regulations are being complied with, take saliva or hair samples for DNA testing, from any dog on premises occupied by the licence holder.

Duty to assist in the taking of samples

21. The licence holder must comply with any reasonable request of an inspector in order to facilitate the identification and examination of a dog and the taking of samples in accordance with regulation 20 and, in particular, must arrange the penning of a dog if so requested by an inspector.

Offences

22. —(1) It is an offence for a person, without lawful authority or excuse, to contravene any licence condition.

(13) 1980. c. 43.

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(2) A person guilty of an offence under this regulation is liable on summary conviction to imprisonment for a term not exceeding 6 months, a fine not exceeding level 5 on the standard scale, or both.

Powers of Entry

23. Breach of a licence condition must be treated as a relevant offence for the purpose of section 23 of the Act (entry and search under warrant in connection with offences).

Post Conviction Powers

24. The relevant post conviction powers contained in sections 34 and 42 of the Act apply in relation to a conviction for an offence of breach of a condition of a licence granted under these Regulations.

Transitional provisions

25. A licence granted under the Breeding of Dogs Act 1973 will continue to have effect as if it were a licence granted under regulation 5.

Consequential amendments

26. Schedule 2 (consequential amendments) has effect.

Enforcement

27. These Regulations are enforced by the local authority.

Rebecca Evans Deputy Minister for Farming and
Food, under authority of the Minister for Natural
Resources,
one of the Welsh Ministers

10 December 2014

SCHEDULES

SCHEDULE 1

Regulation 8(2)

PART 1

Licence Conditions

Condition 1: Enhancement and Enrichment

1. The licence holder must implement an enhancement and enrichment programme that has been approved by the local authority.

Condition 2: Socialisation

2. The licence holder must implement a socialisation programme that has been approved by the local authority.

Condition 3: Health

3. The licence holder must take all reasonable steps to protect dogs from pain, suffering, injury and disease.

Condition 4: Mating

4. The licence holder must ensure a breeding bitch—
- (a) is not mated until she is 12 months old;
 - (b) does not give birth to more than 1 litter of puppies in a 12 month period; and
 - (c) does not give birth to more than 6 litters of puppies in total.

Condition 5: Change of ownership of a puppy

5. The licence holder must retain ownership and possession of a puppy on the premises occupied by the licence holder until it is at least 56 days old.

Condition 6: Breeding bitch record requirements

6.—(1) The licence holder must maintain a written record in relation to each breeding bitch kept setting out her:

- (a) name;
- (b) date of birth;
- (c) breed;
- (d) physical description including colour and identifying features;
- (e) health status;
- (f) mating details including;

- (i) in relation to the sire, the information required in sub-paragraph 1(a) to (e);
 - (ii) in relation to each puppy born—
 - (aa) date of birth;
- (bb) when ownership is transferred, the new owners name and address.
- (2) When ownership of a breeding bitch is transferred the name, address and telephone number of the new owner must be recorded by the licence holder on the record referred to in sub-paragraph (1) and a copy of the record must be provided to the new owner and a copy retained by the licence holder.
- (3) The record referred to in sub-paragraph (1) must be available for inspection and retained by the licence holder for the lifetime of the breeding bitch.

Condition 7: Puppy record requirements

- 7.—(1) The licence holder must maintain a written record confirming the following details in relation to each puppy which is on the premises occupied by the licence holder:
- (a) sex;
 - (b) date of birth;
 - (c) breed;
 - (d) physical description including colour and identifying features;
 - (e) health status;
 - (f) in relation to the dam, the information required by condition 6(1)(a) to (e); and
 - (g) in relation to the sire, the information required by condition 6(1)(a) to (e).
- (2) When ownership of a puppy is transferred, the name address and telephone number of the new owner must be recorded by the licence holder on the record referred to in sub-paragraph (1) and a copy of the record must be provided to the new owner and a copy retained by the licence holder.
- (3) The record referred to in sub-paragraph (1) must be available for inspection by the local authority at any time and retained by the licence holder for 3 years from the date of birth of the puppy.

SCHEDULE 2

Regulation 26

Consequential amendments

Breeding of Dogs Act 1973

1. In section 5 of the Breeding of Dogs Act 1973 (interpretation), in subsection (2), in the definition of “local authority”, omit “and in Wales the council of a county or countyborough”.

Local Government (Wales) Act 1994

2. In Schedule 16 of the Local Government (Wales) Act 1994 (other consequential amendments), omit paragraph 42.

Guard Dogs Act 1975

3. In section 3 of the Guard Dogs Act 1975 (guard dog kennel licences), before subsection (6) insert—

Status: This is the original version (as it was originally made). This item of legislation is currently

“(5B) Where a person is convicted of an offence under section 13(6) of the Animal Welfare Act 2006 arising from the contravention of section 13(1) of that Act in relation to dog breeding in Wales, or of an offence under the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, subsections (4) and (5) apply as they do to convictions under this Act.”

Dangerous Wild Animals Act 1976

4. At the end of section 6 of the Dangerous Wild Animals Act 1976 (penalties) insert—

“(3B) Where a person is convicted of an offence under section 13(6) of the Animal Welfare Act 2006 arising from the contravention of section 13(1) of that Act in relation to dog breeding in Wales, or of an offence under the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, subsections (2) and (3) apply as they do to convictions under this Act”.

Zoo Licensing Act 1981

5. In section 4 of the Zoo Licensing Act 1981 (grant or refusal of licence), in subsection (5), insert at the end—

““section 13(6) of the Animal Welfare Act 2006, so far as the offence arises from the contravention of section 13(1) of that Act in relation to dog breeding in Wales; the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the licensing of persons involved in the breeding of dogs. Part 2 of the Regulations specifies dog breeding for the purposes of section 13(1) of the Animal Welfare Act 2006 (c.45) (“the Act”). The consequence of this specification is that, subject to qualifying criteria, any person wishing to breed dogs in Wales must obtain a licence from their local authority under these Regulations. This requirement replaces the requirement to obtain a licence under the Breeding of Dogs Act 1973 in Wales.

A person who breeds dogs in Wales without a licence under these Regulations commits an offence under section 13(6) of the Animal Welfare Act 2006 and is liable to imprisonment for a term of up to 6 months, a fine or both. Under section 30 of the Animal Welfare Act 2006 local authorities may prosecute for any offence under the Act.

Part 3 of the Regulations sets out how a person may apply to the local authority for a licence and sets out matters in respect of which a local authority must be satisfied when considering the granting and renewing of a licence. It provides for a local authority to charge fees to cover any reasonable expenses incurred in performing this function and for monitoring compliance with these Regulations. It requires a local authority to have regard to guidance issued by the Welsh Ministers in carrying out their functions under these Regulations.

Part 4 sets out circumstances in which a licence may be suspended, varied or revoked. Part 5 provides for appeals against licensing decisions by local authorities.

Part 6 provides that a breach of a condition of a licence granted under these Regulations is an offence. It provides powers for inspectors to take samples and enter premises and applies relevant post conviction powers contained in the Act. It provides for local authorities to enforce the Regulations. It provides that licences granted under the Breeding of Dogs Act 1973 continue to have effect as if granted under these Regulations.

Schedule 1 to these Regulations sets out compulsory licence conditions which must be included on each licence granted by a local authority.

Schedule 2 to these Regulations amends the Breeding of Dogs Act 1973 and amends references to it in 4 Acts consequential upon the repeal of section 1(1) of that Act in relation to Wales.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from Welsh Government, Cathays Park, Cardiff CF10 3NQ.

Annexe IV:

Rheoliadau Lles Anifeiliaid (Bridio Cŵn) (Cymru) 2014

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

OFFERYNNAU STATUDOL CYMRU

2014 Rhif 3266 (Cy. 333)

ANIFEILIAID, CYMRU

Rheoliadau Lles Anifeiliaid (Bridio Cŵn) (Cymru) 2014

Gwnaed - - - - *10 Rhagfyr 2014*

Yn dod i rym - - *30 Ebrill 2015*

Mae Gweinidogion Cymru, sef yr awdurdod cenedlaethol priodol mewn perthynas â Chymru(1), yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir gan adrannau 13(2), (7), (8)(e) a (10) o Ddeddf Lles Anifeiliaid 2006(2) a Rhannau 1 a 3 o Atodlen 1 i'r Ddeddf honno.

Yn unol ag adran 13(9) o'r Ddeddf honno, mae Gweinidogion Cymru, fel yr ystyrient yn briodol, wedi ymgynghori â'r personau hynny yr oedd yn ymddangos iddynt eu bod yn cynrychioli'r buddiannau y mae'r Rheoliadau hyn yn ymwneud â hwy.

Yn unol ag adran 61(2) o'r Ddeddf honno(3), mae drafft o'r offeryn hwn wedi ei osod gerbron Cynulliad Cenedlaethol Cymru ac wedi ei gymeradwyo drwy benderfyniad y Cynulliad.

RHAN 1

Cyflwyniad

Enwi, cymhwyso a chychwyn

- 1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Lles Anifeiliaid (Bridio Cŵn) (Cymru) 2014.
- (2) Maent yn gymwys o ran Cymru ac yn dod i rym ar 30 Ebrill 2015.

Diddymu adran 1(1) o Ddeddf Bridio Cŵn 1973

2. Yn adran 1 o Ddeddf Bridio Cŵn 1973 (trwyddedu sefydliadau bridio cŵn), ar ôl is-adran (1) mewnosoder—
“(1A) Subsection (1) does not apply in relation to Wales.”

(1) Diffinnir “appropriate national authority” yn adran 62(1) o Ddeddf Lles Anifeiliaid 2006. Mae'r swyddogaethau a roddwyd i Gynulliad Cenedlaethol Cymru wedi eu breinio bellach yng Ngweinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraffau 30 a 32 o Atodlen 11 i'r Ddeddf honno.

(2) 2006 p. 45.

(3) 2006 p. 45. Yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraff 34 o Atodlen 11 i'r Ddeddf honno, mae'r cyfeiriad at “House of Parliament” yn adran 61(2) yn cynnwys Cynulliad Cenedlaethol Cymru.

Dehongli

3. Yn y Rheoliadau hyn—

ystyr “amodau trwydded” (“*licence conditions*”) yw’r amodau hynny a bennir yn Atodlen 1 i’r Rheoliadau hyn ac unrhyw amodau ychwanegol a osodir ynghlwm wrth drwydded gan yr awdurdod lleol;

ystyr “arolygydd” (“*inspector*”) yw unrhyw berson sydd ag awdurdod ysgrifenedig gan awdurdod lleol i weithredu mewn materion sy’n codi o dan, neu mewn cysylltiad â’r Ddeddf neu’r Rheoliadau hyn;

ystyr “awdurdod lleol” (“*local authority*”) yw’r cyngor sir neu’r cyngor bwrdeistref sirol lle y mae’r ceisydd am y drwydded o dan reoliad 7 yn cynnal y gweithgaredd o fridio cŵn yn ei ardal;

ystyr “ci bach” (“*puppy*”) yw ci sy’n iau na 6 mis oed;

ystyr “ci llawndwŷ” (“*adult dog*”) yw ci nad yw’n iau na 6 mis oed; ystyr

“y Ddeddf” (“*the Act*”) yw Deddf Lles Anifeiliaid 2006;

ystyr “gast fridio” (“*breeding bitch*”) yw gast heb ei hysbaddu, nad yw’n iau na 6 mis oed;

ystyr “gweinydd llawnamser” (“*full time attendant*”) yw person sy’n gweithio am o leiaf 37 awr yr wythnos, naill ai am dâl neu’n ddi-dâl, ym mangre deiliad y drwydded;

ystyr “gweinydd rhan-amser” (“*part time attendant*”) yw person sy’n gweithio rhwng 18.5 a 37 awr bob wythnos, naill ai am dâl neu’n ddi-dâl, ym mangre deiliad y drwydded;

ystyr “rhaglen gymdeithasoli” (“*socialisation programme*”) yw dogfen a gymeradwywyd mewn ysgrifenedig gan yr awdurdod lleol, sy’n manylu ar sut y gwneir i gŵn bach ymgynffwrdd â chael eu trin gan bobl, amgylcheddau domestig a chwarae, a sut i’w paratoi ar gyfer eu gwahanu oddi wrth y fam;

ystyr “rhaglen gymdeithasoli ddrafft” (“*draft socialisation programme*”) yw dogfen sy’n manylu ar sut y gwneir i gŵn bach ymgynffwrdd â chael eu trin gan bobl, amgylcheddau domestig a chwarae, a sut i’w paratoi ar gyfer eu gwahanu oddi wrth y fam, a gyflwynir gan y ceisydd i’r awdurdod lleol o dan reoliad 7;

ystyr “rhaglen wella a chyfoethogi” (“*enhancement and enrichment programme*”) yw dogfen a gymeradwywyd mewn ysgrifenedig gan yr awdurdod lleol, sy’n manylu ar y modd y rhoddir cyfleoedd i gŵn fynegi patrymau ymddygiad naturiol;

ystyr “rhaglen wella a chyfoethogi ddrafft” (“*draft enhancement and enrichment programme*”) yw dogfen sy’n manylu ar y modd y rhoddir cyfleoedd i gŵn fynegi patrymau ymddygiad naturiol, a gyflwynwyd gan y ceisydd i’r awdurdod lleol o dan reoliad 7;

ystyr “trwydded” (“*licence*”) yw trwydded a roddir o dan reolad 8.

RHAN 2

Gofyniad i ddal trwydded

Trwyddedu bridwyr cŵn

4. Mae bridio cŵn yn weithgaredd penodedig, at ddibenion adran 13(1) o’r Ddeddf.

Bridio cŵn: dehongli

5.—(1) Mae person yn cynnal y gweithgaredd o fridio cŵn at ddibenion adran 13(1) o’r Ddeddf os yw’n cadw 3 neu ragor o eist bridio mewn mangre, ac—

- (a) yn bridio, yn y fangre honno, 3 neu ragor o dorllwythi o gŵn bach mewn unrhyw gyfnod o 12 mis;
 - (b) yn hysbysebu ar werth o'r fangre honno gi neu gŵn bach, a anwyd o 3 neu ragor o dorllwythi o gŵn bach a roddwyd ar werth yn ystod unrhyw gyfnod o 12 mis;
 - (c) yn cyflenwi o'r fangre honno gi neu gŵn bach, a anwyd o 3 neu ragor o dorllwythi o gŵn bach yn ystod unrhyw gyfnod o 12 mis;
 - (d) yn hysbysebu busnes o fridio neu o werthu cŵn bach o'r fangre honno.
- (2) At ddibenion paragraff (1) rhagdybir bod unrhyw gi a ganfyddir mewn mangre yn cael ei gadw gan feddiannydd y fangre honno nes profir i'r gwrthwyneb.
- (3) At ddibenion paragraffau (1)(a) i (c) nid yw'n berthnasol a yw'r torllwythi o gŵn bach wedi eu bridio o'r geist bridio y cyfeirir atynt ym mharagraff (1), ai peidio.
- (4) Mae'r rheoliad hwn yn ddarostyngedig i reoliad 6.

Bridio cŵn: eithrio

6.—(1) Nid yw person yn cynnal y gweithgaredd o fridio cŵn at ddibenion adran 13(1) o'r Ddeddf os yw'r cŵn a grybwyllwyd yn rheoliad 5 yn cael eu bridio—

- (a) i'w defnyddio mewn gweithdrefnau a reoleiddir, a
- (b) mewn lle a bennir mewn trwydded adran 2C yn rhinwedd adran 2B(2)(b) o Ddeddf Anifeiliaid (Gweithdrefnau Gwyddonol) 1986.

(2) Ym mharagraff (1) mae i "gweithdrefn a reoleiddir" a "trwydded adran 2C" yr ystyr a roddir i "regulated procedure" a "section 2C licence" gan adran 30 o Ddeddf Anifeiliaid (Gweithdrefnau Gwyddonol) 1986.

RHAN 3

Trwyddedau

Cais am drwydded

- 7.—(1) Er mwyn gwneud cais am drwydded o dan y Rheoliadau hyn, rhaid i geisydd gyflwyno —
- (a) cais ar ffurf ac mewn modd a gymeradwywyd gan yr awdurdod lleol;
 - (b) rhaglen wella a chyfoethogi ddrafft;
 - (c) rhaglen gymdeithasoli ddrafft;
 - (d) manylion am nifer y cŵn llawndwf a chŵn bach y rhagwelir a fydd yn bresennol yn y fangre ar unrhyw adeg; ac
 - (e) y dogfennau ategol hynny sy'n rhesymol ofynnol gan yr awdurdod.
- (2) Rhaid i'r ceisydd dalu unrhyw ffi briodol yn unol â rheoliad 12.

Rhoi neu adnewyddu trwyddedau

8.—(1) Wrth gael cais sy'n cydymffurfio â rheoliad 7, rhaid i awdurdod lleol archwilio mangre'r ceisydd, ac os bydd wedi ei fodloni—

- (a) bod amodau'r drwydded naill ai wedi eu bodloni neu y byddant yn cael eu bodloni;
- (b) gyda'r rhaglen wella a chyfoethogi ddrafft;
- (c) gyda'r rhaglen gymdeithasoli ddrafft; a

(d) gydag unrhyw faterion eraill y mae'r awdurdod lleol yn eu hystyried yn berthnasol; caiff roi trwydded i'r ceisydd.

(2) Ynghlwm wrth bob trwydded a roddir, rhaid i'r awdurdod lleol roi—

- (a) yr amodau sydd wedi eu cynnwys yn Atodlen 1 i'r Rheoliadau hyn;
- (b) amod sy'n pennu'r nifer uchaf o gŵn llawndwf a chŵn bach sydd i'w cadw o dan delerau'r drwydded; ac
- (c) amod sy'n pennu cymhareb nifer y staff i nifer y cŵn llawndwf a fydd yn sicrhau, fel isafswm staffio—
 - (i) 1 gweinydd llawnamser am bob 20 ci llawndwf a gedwir; neu
 - (ii) 1 gweinydd rhan-amser am bob 10 ci llawndwf a gedwir.

(3) Yn ddarostyngedig i baragraff (2) caiff yr awdurdod lleol hefyd atodi amodau pellach i drwydded fel y mae'n ei ystyried yn angenrheidiol.

(4) Caiff yr awdurdod lleol roi neu adnewyddu trwydded am unrhyw gyfnod o hyd at 1 flwyddyn.

Ystyried ceisiadau am drwyddedau

9.—(1) Wrth ystyried a ddylid rhoi neu adnewyddu trwydded, rhaid i'r awdurdod lleol fod wedi ei fodloni—

- (a) bod y cŵn yn cael eu cadw bob amser mewn llety o wneuthuriad a maint priodol, gyda chyfleusterau ymarfer, tymheredd, goleuo, awyru a glanweithdra priodol;
- (b) bod cyfleusterau esgor priodol ar gael;
- (c) bod y cŵn yn cael cyflenwad addas o fwyd, diod a gwasarn; a
- (d) bod y cŵn yn cael cyfleusterau digonol i'w galluogi i arddangos patrymau ymddygiad naturiol.

(2) Cyn rhoi neu adnewyddu trwydded, bydd hawl gan awdurdod lleol, wrth ystyried a fydd amodau'r drwydded yn cael eu bodloni, i roi sylw i ymddygiad y ceisydd, neu i unrhyw amgylchiadau eraill a ystyrir yn berthnasol gan yr awdurdod lleol.

Pobl na chaniateir iddynt wneud cais am drwydded

10. Ni chaiff neb wneud cais am drwydded os yw wedi ei anghymhwysu o dan—

- (a) adran 33 o Ddeddf Lles Anifeiliaid (Gogledd Iwerddon) 2011(4);
- (b) adran 34 o'r Ddeddf;
- (c) adran 40(1) a (2) o Ddeddf Iechyd a Lles Anifeiliaid (Yr Alban) 2006(5);
- (d) adran 33A o Orchymyn Cŵn (Gogledd Iwerddon) 1983(6);
- (e) adran 3(3) o Ddeddf Bridio Cŵn 1973(7) rhag cadw sefydliad bridio;
- (f) adran 4(3) o Ddeddf Sefydliadau Marchogaeth 1964 rhag cadw sefydliad marchogaeth(8);
- (g) adran 3(3) o Ddeddf Sefydliadau Lletya Anifeiliaid 1963 rhag cadw sefydliad lletya(9);

(4) 2011 p. 16.

(5) 2006 dsa 11.

(6) 1983/764 (G.I. 8).

(7) 1973 p.60. Diwygiwyd adran 3(3) gan adran 5(1) o Ddeddf Bridio a Gwerthu Cŵn (Lles) 1999 (p.11).

(8) 1964 p. 70. Diwygiwyd adran 4(3) gan adran 64 o Ddeddf Lles Anifeiliaid 2006 a pharagraff 6(2) o Atodlen 3 i'r Ddeddf honno.

(9) 1963 p. 43. Diwygiwyd adran 3(3) gan adran 64 o Ddeddf Lles Anifeiliaid 2006 a pharagraff 5(2) o Atodlen 3 i'r Ddeddf honno.

- (h) adran 1(1) o Ddeddf Diogelu Anifeiliaid (Diwygio) 1954 rhag gwarchod anifail(10);
 - (i) adran 5(3) o Ddeddf Anifeiliaid Anwes 1951 rhag cadw siop anifeiliaid anwes(11); neu
 - (j) adran 6(2) o Ddeddf Anifeiliaid Gwyllt Peryglus 1976 rhag bod yn berchen anifail(12),
- ac y mae unrhyw drwydded a ddyroddir i berson sydd wedi ei anghymhwyso felly yn annilys.

Marwolaeth deiliad trwydded

11.—(1) Os bydd y deiliad trwydded yn marw, rhagdybir bod y drwydded honno wedi ei rhoi i gynrychiolwyr personol y deiliad trwydded, ar yr amod nad oes yr un o'r cynrychiolwyr personol yn ddarostyngedig i orchymyn anghymhwyso o dan unrhyw un o'r darpariaethau a bennir yn rheoliad 10, a bydd y drwydded yn parhau mewn grym am gyfnod o 3 mis, sy'n cychwyn gyda dyddiad y farwolaeth, ond yn parhau'n ddarostyngedig i'r darpariaethau yn Rhan 3.

(2) Rhaid i'r cynrychiolwyr personol hysbysu'r awdurdod lleol a ddyroddodd y drwydded, fod y drwydded wedi ei breinio ynddynt hwy, o fewn 4 wythnos ar ôl marwolaeth y deiliad trwydded.

(3) Yn ddarostyngedig i baragraffau (4) a (5), caiff awdurdod lleol, ar gais y cynrychiolwyr personol hynny, estyn y cyfnod o 3 mis y cyfeirir ato ym mharagraff (1) os bodlonir yr awdurdod lleol fod yr estyniad yn angenrheidiol at y diben o ddirwyn i ben ystâd yr ymadawedig, ac nad oes amgylchiadau eraill sy'n peri y byddai'n annymunol caniatáu estyniad.

(4) Cyn estyn trwydded y tu hwnt i 1 flwyddyn o'r dyddiad y'i cyflwynwyd, rhaid i awdurdod lleol archwilio mangre'r deiliad trwydded, ac ar ôl hynny archwilio'r fangre o leiaf unwaith y flwyddyn yn ystod cyfnod yr estyniad.

(5) Ni chaniateir estyn unrhyw drwydded o dan baragraff (3) y tu hwnt i 3 blynedd o'r dyddiad y cyflwynwyd y drwydded.

Ffioedd

12.—(1) Caiff awdurdod lleol godi'r cyfryw ffioedd a ystyria'n angenrheidiol—

- (a) am ystyried cais am drwydded; ac
- (b) am roi neu adnewyddu trwydded.

(2) Ni chaiff y ffi a godir am ystyried cais am drwydded fod yn fwy na chostau rhesymol cyflawni'r ystyriaeth honno.

(3) Ni chaiff y ffi a godir am roi neu adnewyddu trwydded fod yn fwy na swm y costau am roi neu adnewyddu a'r costau disgwylidig rhesymol am fonitro cydymffurfiaeth y deiliad trwydded â'r Rheoliadau hyn ac amodau'r drwydded yn y dyfodol.

Canllawiau

13. Rhaid i'r awdurdod lleol, wrth gyflawni ei swyddogaethau o dan y Rheoliadau hyn, roi sylw i unrhyw ganllawiau a ddyroddir gan Weinidogion Cymru.

(10) 1954 p.40. Diddymwyd adran 1 gan adran 65 o Ddeddf Lles Anifeiliaid 2006 ac Atodlen 4 i'r Ddeddf honno.

(11) 1951 p.35. Diwygiwyd adran 5(3) gan adran 64 o Ddeddf Lles Anifeiliaid 2006 a pharagraff 3(2) o Atodlen 3 i'r Ddeddf honno.

(12) 1976 p.38. Diwygiwyd adran 6(2) gan adran 64 o Ddeddf Lles Anifeiliaid 2006 a pharagraff 9 o Atodlen 3 i'r Ddeddf honno.

RHAN 4

Atal Dros Dro, Amrywio a Dirymu Trwydded

Seiliau ar gyfer atal dros dro ac amrywio trwydded

14. Caiff awdurdod lleol atal dros dro neu amrywio trwydded ar unrhyw adeg os bodlonir yr awdurdod lleol—

- (a) nad yw'r materion y cyfeirir atynt yn rheoliad 9(1)(a) i (d) wedi eu bodloni;
- (b) na chydymffurfir ag amodau'r drwydded;
- (c) y cyflawnwyd toriad o'r Rheoliadau hyn;
- (d) bod gwybodaeth a gyflenwyd gan y deiliad trwydded yn ffug; neu
- (e) bod atal dros dro neu amrywio'n angenrheidiol er mwyn diogelu lles ci.

Y weithdrefn ar gyfer atal dros dro ac amrywio

15.—(1) Bydd atal dros dro neu amrywio trwydded o dan reoliad 14 yn cael effaith ar ddiwedd y cyfnod o 7 diwrnod sy'n cychwyn gyda diwrnod cyflwyno'r hysbysiad o'r ataliad dros dro neu'r amrywiad.

(2) Os yw'n angenrheidiol er mwyn diogelu lles anifail, caiff yr awdurdod lleol bennu yn yr hysbysiad fod yr ataliad dros dro neu'r amrywiad i gael effaith ar unwaith.

(3) Raid i hysbysiad o ataliad dros dro neu amrywiad—

- (a) datgan seiliau'r awdurdod lleol dros atal dros dro neu amrywio;
- (b) datgan pa bryd y daw'r ataliad dros dro neu'r amrywiad i rym;
- (c) pennu pa gamau, ym marn yr awdurdod lleol, y mae'n angenrheidiol eu cymryd er mwyn ymateb i'r seiliau; a
- (d) esbonio bod hawl gan y deiliad trwydded i wneud sylwadau ysgrifenedig o dan baragraff (4), rhoi iddo fanylion y person y dylid cyflwyno'r sylwadau hynny iddo, a datgan erbyn pa ddyddiad y mae'n rhaid eu cyflwyno.

(4) Os nad yw'r hysbysiad i gael effaith ar unwaith, caiff y deiliad trwydded gyflwyno sylwadau ysgrifenedig yn gwrthwynebu'r hysbysiad, i'r awdurdod lleol o fewn cyfnod o 7 diwrnod sy'n cychwyn gyda dyddiad cyflwyno'r hysbysiad.

(5) Os gwneir sylwadau o dan baragraff (4), ni fydd yr ataliad dros dro neu'r amrywiad yn cael effaith hyd nes bo'r awdurdod lleol wedi ystyried y sylwadau ac wedi penderfynu arnynt yn unol â pharagraff (6).

(6) Rhaid i'r awdurdod lleol wneud penderfyniad ar y sylwadau, a hysbysu'r deiliad trwydded o'r penderfyniad hwnnw mewn ysgrifen, gan roi rhesymau, o fewn cyfnod o 7 diwrnod sy'n cychwyn gyda'r diwrnod y mae'r awdurdod yn cael y sylwadau hynny.

(7) Os yw trwydded wedi ei atal dros dro am fwy na 28 niwrnod, rhaid i awdurdod lleol—

- (a) adfer y drwydded honno a ataliwyd dros dro; neu
- (b) dirymu'r drwydded honno a ataliwyd dros dro.

Adfer trwydded

16.—(1) Rhaid i awdurdod lleol, drwy hysbysiad, adfer trwydded a ataliwyd dros dro, unwaith y'i bodlonir bod y seiliau a bennwyd yn yr hysbysiad o ataliad dros dro wedi eu datrys, neu y byddant yn cael eu datrys.

(2) Wrth adfer trwydded o dan baragraff (1) ceir amrywio'r cyfnod y dyroddir y drwydded ar ei gyfer ond ni cheir estyn y drwydded y tu hwnt i 1 flwyddyn o'r dyddiad y cafodd ei hadfer.

Seiliau ar gyfer dirymu trwydded

- 17.—(1) Caiff awdurdod lleol ddirymu trwydded os bodlonir yr awdurdod lleol—
- (a) nad yw'r materion y cyfeirir atynt yn rheoliad 9(1)(a) i (d) wedi eu bodloni;
 - (b) na chydymffurfir ag amodau'r drwydded;
 - (c) y cyflawnwyd toriad o'r Rheoliadau hyn;
 - (d) bod gwybodaeth a gyflenwyd gan y deiliad trwydded yn ffug; neu
 - (e) bod dirymu'n angenrheidiol er mwyn diogelu lles ci.

(2) Os anghymhwysir deiliad trwydded o dan unrhyw un o'r deddfiadau yn rheoliad 10, dirymir trwydded y deiliad hwnnw yn awtomatig pan fo'r cyfnod o amser a ganiateir ar gyfer unrhyw apêl yn dod i ben, neu os gwneir apêl, pan wrthodir yr apêl honno.

Hysbysiad dirymu

18. Rhaid i hysbysiad dirymu—
- (a) datgan seiliau'r awdurdod lleol dros ddirymu;
 - (b) datgan pa bryd y daw'r dirymiad i rym; a
 - (c) nodi bod hawl i apelio i lys ynadon.

RHAN 5

Apelau

Hawl i Apelio

- 19.—(1) Caiff unrhyw berson a dramgwyddir oherwydd gwrthod rhoi neu adnewyddu trwydded, neu benderfyniad i ddirymu trwydded, apelio i lys ynadon.
- (2) Bydd y weithdrefn mewn apêl i lys ynadon o dan baragraff (1) ar ffurf cwyn, a bydd Deddf Llysoedd Ynadon 1980(13) yn gymwys i'r achos.
- (3) Y cyfnod a ganiateir ar gyfer dwyn apêl yw cyfnod o 28 diwrnod sy'n cychwyn gyda'r diwrnod sy'n dilyn y diwrnod y rhoddir hysbysiad o'r penderfyniad.

RHAN 6

Darpariaethau amrywiol

Pŵer i gymryd samplau

20. Caiff arolygydd, at y diben o sicrhau y cydymffurfir â darpariaethau'r Rheoliadau hyn, gymryd samplau o boer neu o flew unrhyw gi sydd mewn mangre a feddiannir gan y deiliad trwydded, ar gyfer cynnal profion DNA.

(13) 1980 p. 43.

Dyletswydd i gynorthwyo gyda chymryd samplau

21. Rhaid i'r deiliad trwydded gydymffurfio ag unrhyw gais rhesymol gan arolygydd, i hwyluso adnabod ac archwilio ci a chymryd samplau yn unol â rheoliad 20 ac, yn benodol, trefnu i gorlannu ci os gofynnir iddo wneud hynny gan arolygydd.

Troseddau

22.—(1) Cyflawnir trosedd os yw person, heb awdurdod cyfreithiol nac esgus, yn mynd yn groes i unrhyw amod trwyddedu.

(2) Mae person sy'n euog o drosedd o dan y rheoliad hwn yn agored, ar gollfarn ddiannod, i gyfnod yn y carchar nad yw'n hwy na 6 mis, dirwy nad yw'n fwy na lefel 5 ar y raddfa safonol, neu'r ddau.

Pwerau mynediad

23. Rhaid trin toriad o amod trwydded fel trosedd berthnasol yn yr ystyr a roddir i "relevant offence" at ddibenion adran 23 o'r Ddeddf (mynd i mewn a chwilio o dan warant mewn cysylltiad â throseddau).

Pwerau sy'n dilyn collfarn

24. Mae'r pwerau perthnasol sy'n dilyn collfarn, a gynhwysir yn adrannau 34 a 42 o'r Ddeddf, yn gymwys mewn perthynas â chollfarn am drosedd o dorri amod trwydded a roddir o dan y Rheoliadau hyn.

Darpariaethau trosiannol

25. Bydd trwydded a roddwyd o dan Ddeddf Bridio Cŵn 1973 yn parhau i gael effaith fel pe bai'n drwydded a roddwyd o dan reoliad 5.

Diwygiadau canlyniadol

26. Mae Atodlen 2 (diwygiadau canlyniadol) yn cael effaith.

Gorfodi

27. Gorfodir y Rheoliadau hyn gan yr awdurdod lleol.

Rebecca Evans Y Dirprwy Weinidog Ffermio a
Bwyd, o dan awdurdod y Gweinidog Cyfoeth
Naturiol, uno
Weinidogion Cymru.

10 Rhagfyr 2014

YR ATODLENNI

ATODLEN 1

Rheoliad 8(2)

RHAN 1

Amodau Trwydded

Amod 1: Gwella a Chyfoethogi

1. Rhaid i'r deiliad trwydded weithredu rhaglen wella a chyfoethogi a gymeradwywyd gan yr awdurdod lleol.

Amod 2: Cymdeithasoli

2. Rhaid i'r deiliad trwydded weithredu rhaglen gymdeithasoli a gymeradwywyd gan yr awdurdod lleol.

Amod 3: Iechyd

3. Rhaid i'r deiliad trwydded gymryd pob cam rhesymol i ddiogelu cŵn rhag poen, dioddefaint, anaf a chlefyd.

Amod 4: Paru

4. Rhaid i'r deiliad trwydded sicrhau nad yw gast fridio—
- (a) yn cael ei pharu cyn ei bod yn 12 mis oed;
 - (b) yn rhoi genedigaeth i fwy nag un torllwyth o gŵn bach o fewn cyfnod o 12 mis; nac
 - (c) yn rhoi genedigaeth i gyfanswm o fwy na 6 torllwyth o gŵn bach.

Amod 5: Newid perchnogaeth ci bach

5. Rhaid i'r deiliad trwydded barhau'n berchennog ac yn feddiannwr unrhyw gi bach yn y fangre a feddiannir gan y deiliad trwydded hyd nes bo'r ci bach yn 56 diwrnod oed, o leiaf.

Amod 6: Gofynion cofnodi geist bridio

6.—(1) Rhaid i'r deiliad trwydded gynnal cofnod ysgrifenedig mewn perthynas â phob gast fridio a gedwir, gan nodi—

- (a) ei henw;
- (b) ei dyddiad geni;
- (c) ei brid;
- (d) disgrifiad ffisegol ohoni, gan gynnwys ei lliw a'i nodweddion adnabod;
- (e) ei statws iechyd;
- (f) manylion paru, gan gynnwys;

- (i) mewn perthynas â'r tad, yr wybodaeth y mae is-baragraff 1(a) i (e) yn ei gwneud yn ofynnol;
- (ii) mewn perthynas â phob ci bach a anwyd—
 - (aa) dyddiad geni;

(bb) pa bryd y trosglwyddwyd perchenogaeth, ac enw a chyfeiriad y perchennog newydd.

(2) Pan drosglwyddir perchenogaeth gast fridio, rhaid i'r deiliad trwydded gofnodi enw, cyfeiriad a rhif teleffon y perchennog newydd yn y cofnod y cyfeirir ato yn is-baragraff (1) a rhaid i'r deiliad trwydded ddarparu copi o'r cofnod hwnnw i'r perchennog newydd a chadw copi ohono ei hunan.

(3) Rhaid i'r cofnod y cyfeirir ato yn is-baragraff (1) fod ar gael i'w archwilio a rhaid i'r deiliad trwydded ddal gafael ynddo drwy gydol oes yr ast fridio.

Amod 7: Gofynion cofnodi cŵn bach

7.—(1) Rhaid i'r deiliad trwydded gynnal cofnod ysgrifenedig sy'n cadarnhau'r manylion canlynol mewn perthynas â phob ci bach sydd yn y fangre a feddiannir gan y deiliad trwydded:

- (a) rhyw;
- (b) dyddiad geni;
- (c) brid;
- (d) disgrifiad ffisegol gan gynnwys lliw a nodweddion adnabod;
- (e) statws iechyd;
- (f) mewn perthynas â'r fam, yr wybodaeth y mae amod 6(1)(a) i (e) yn ei gwneud yn ofynnol;
a
- (g) mewn perthynas â'r tad, yr wybodaeth y mae amod 6(1)(a) i (e) yn ei gwneud yn ofynnol.

(2) Pan drosglwyddir perchenogaeth ci bach, rhaid i'r deiliad trwydded gofnodi enw, cyfeiriad a rhif teleffon y perchennog newydd yn y cofnod y cyfeirir ato yn is-baragraff (1) a rhaid i'r deiliad trwydded ddarparu copi o'r cofnod hwnnw i'r perchennog newydd a chadw copi ohono ei hunan.

(3) Rhaid i'r cofnod y cyfeirir ato yn is-baragraff (1) fod ar gael i'w archwilio gan yr awdurdod lleol ar unrhyw adeg, a rhaid i'r deiliad trwydded ddal gafael ynddo am 3 blynedd ar ôl geni'r ci bach.

ATODLEN 2

Rheoliad 26

Diwygiadau Canlyniadol

Deddf Bridio Cŵn 1973

1. Yn adran 5 o Ddeddf Bridio Cŵn 1973 (dehongli), yn is-adran (2), yn y diffiniad o "local authority", hepgorer "and in Wales the council of a county or county borough".

Deddf Llywodraeth Leol (Cymru) 1994

2. Yn Atodlen 16 o Ddeddf Llywodraeth Leol (Cymru) 1994 (diwygiadau canlyniadol eraill), hepgorer paragraff 42.

Deddf Cŵn Gwarchod 1975

3. Yn adran 3 o Ddeddf Cŵn Gwarchod 1975 (trwyddedau cwbiau cŵn gwarchod), o flaen is-adran (6), mewnosoder—

“(5B) Where a person is convicted of an offence under section 13(6) of the Animal Welfare Act 2006 arising from the contravention of section 13(1) of that Act in relation to dog breeding in Wales, or of an offence under the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, subsections (4) and (5) apply as they do to convictions under this Act”.

Deddf Anifeiliaid Gwyllt Peryglus 1976

4. Ar ddiwedd adran 6 o Ddeddf Anifeiliaid Gwyllt Peryglus 1976 (cosbau) mewnosoder—

“(3B) Where a person is convicted of an offence under section 13(6) of the Animal Welfare Act 2006 arising from the contravention of section 13(1) of that Act in relation to dog breeding in Wales, or of an offence under the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, subsections (2) and (3) apply as they do to convictions under this Act”.

Deddf Trwyddedu Sŵau 1981

5. Yn adran 4 o Ddeddf Trwyddedu Sŵau 1981 (rhoi neu wrthod trwydded), yn is-adran (5), mewnosoder ar y diwedd—

““section 13(6) of the Animal Welfare Act 2006, so far as the offence arises from the contravention of section 13(1) of that Act in relation to dog breeding in Wales; the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014.”

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn darparu ar gyfer trwyddedu personau sy'n ymwneud â bridio cŵn. Mae Rhan 2 o'r Rheoliadau yn diffinio bridio cŵn at ddibenion adran 13(1) o Ddeddf Lles Anifeiliaid 2006 (p. 45) (“y Ddeddf”). Canlyniad y dynodiad hwnnw, yn ddarostyngedig i griteria cymhwyso, yw bod rhaid i unrhyw berson sy'n dymuno bridio cŵn yng Nghymru gael trwydded gan ei awdurdod lleol o dan y Rheoliadau hyn. Mae'r gofyniad hwn yn disodli'r gofyniad i gael trwydded o dan Ddeddf Bridio Cŵn 1973 yng Nghymru.

Mae person sy'n bridio cŵn yng Nghymru heb drwydded o dan y Rheoliadau hyn yn cyflawni trosedd o dan adran 13(6) o Ddeddf Lles Anifeiliaid 2006 ac yn agored i gael ei garcharu am gyfnod hyd at 6 mis, dirwy neu'r ddau. O dan adran 30 o Ddeddf Lles Anifeiliaid 2006 caiff awdurdodau lleol erlyn am unrhyw drosedd o dan y Ddeddf.

Mae Rhan 3 o'r Rheoliadau yn pennu sut y gall person wneud cais i'r awdurdod lleol am drwydded ac mae'n pennu materion y mae'n rhaid i awdurdod lleol fodloni ei hunan ynglŷn â hwy wrth ystyried rhoi ac adnewyddu trwydded. Mae'n darparu y caiff awdurdod lleol godi ffioedd i ddiwallu unrhyw dreuliau rhesymol a dynnir wrth gyflawni'r swyddogaeth hon, ac wrth fonitro cydymffurfiaeth â'r

Rheoliadau hyn. Mae'n ei gwneud yn ofynnol i awdurdod lleol roi sylw i ganllawiau a gyhoeddir gan Weinidogion Cymru wrth gyflawni eu swyddogaethau o dan y Rheoliadau hyn.

Mae Rhan 4 yn pennu o dan ba amgylchiadau y ceir atal dros dro, amrywio neu ddirymu trwydded. Mae Rhan 5 yn darparu ar gyfer apelau yn erbyn penderfyniadau trwyddedu gan awdurdodau lleol.

Mae Rhan 6 yn darparu bod torri amod trwydded a roddir o dan y Rheoliadau hyn yn drosedd. Mae'n darparu pwerau i arolygwyr gymryd samplau a mynd i mewn i fangreoedd ac yn cymhwyso pwerau perthnasol, yn dilyn collfarn, sydd wedi eu cynnwys yn y Ddeddf. Mae'n darparu ar gyfer gorfodi'r Rheoliadau hyn gan yr awdurdodau lleol. Mae'n darparu bod trwyddedau a roddir o dan Ddeddf Bridio Cŵn 1973 yn parhau i gael effaith fel pe baent yn cael eu rhoi o dan y Rheoliadau hyn.

Mae Atodlen 1 i'r Rheoliadau hyn yn pennu'r amodau trwydded gorfodol y mae'n rhaid eu gosod ar bob trwydded a roddir gan awdurdod lleol.

Mae Atodlen 2 i'r Rheoliadau hyn yn diwygio Deddf Bridio Cŵn 1973 ac yn diwygio cyfeiriadau ati mewn 4 Deddf o ganlyniad i diddymu adran 1(1) o'r Ddeddf honno mewn perthynas â Chymru.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, paratowyd Asesiad Effaith Rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi ohono gan Lywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

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Cyngor Sir CEREDIGION County Council

Item No.

Report To:	Licensing Committee (Non Statutory Committee)
Date:	16 th September 2021
Time:	10:00 am
Location:	Virtual Meeting
Title:	Hackney Carriage and Private Hire Licensing – Review of Current Policy - Determining the Suitability of Applicants and Current Licence Holders.

Purpose of report: to seek the Licensing Committee's approval for the Licensing Service to begin a formal public consultation, on changing the Council's Suitability Policy relating to applicants and holders of hackney carriage, private hire vehicle, driver's licences and operator licences.

Background

Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 (the Act) and the Town Police Clauses Act 1847, the Council is responsible for the licensing of hackney carriage and private hire drivers. The primary concern when licensing drivers is public safety. Members of this committee regularly sit on Licence Review Panels or sub-committee meetings to consider applications or licence holders in the Hackney Carriage and Private Hire trade. Sometimes, it is the applicant's criminal convictions that are being considered. However, bearing in mind the overall aim of the Licensing Authority is to protect the public, it is more often the case that other matters such as allegations, charges, complaints, a licence holder's compliance record and/or conduct that need to be considered in order to determine whether they are a 'fit and proper' or 'safe and suitable' person to be issued with a licence, or to retain one.

Since 2015, the Authority has used a policy/guidance document based on guidance produced by the Home Office to assist Members to determine applicants' and licence holders' fitness/suitability. Over time, this document has evolved. The current policy is attached as (**Appendix A**).

The Policy has been updated over the years, and it was last reviewed in 2014 when the Wales Licensing Expert Panel produced a guidance document/policy that was approved and promoted for all the Welsh authorities to adopt, thereby ensuring consistency across Wales when considering the suitability of drivers and operators.

Requirement to Review Current Suitability/Fitness Policy

In April 2018, the Institute of Licensing published a new document '*Guidance on determining the suitability of applicants and licensees in the hackney and Private Hire Trades*'. This document was produced by the Institute in collaboration with the Local Government Association (LGA), National Association of Licensing and Enforcement

Officers (NALEO) and Lawyers in Local Government (LLG) and has been subject of widespread consultation nationally.

At recent meetings of the Wales Licensing Expert Panel this document was considered and endorsed with the recommendation that all Welsh authorities approve and implement the Institute of Licensing Guidance, replacing their current guidelines/policy. Many authorities in England and Wales have already adopted the new policy and others are in the process of doing so.

Chapter 4 of this document from paragraph 4.6 onwards forms the key guidance to Members on determining suitability and this has been lifted from the document as the basis for a new Cyngor Sir Ceredigion Policy/Guidance document (**Appendix B**) for Members to use in future for determining the suitability of applicants and licensees.

Whilst Members can refer to the guidance/policy, each case should be determined on its own merits having taking into account all of the facts and oral representations from the applicant, leaving the Committee free to depart from the policy where circumstances warrant it.

It is recommended that members approve that the Licensing Service carry out a consultation on the proposed revised policy that will contain all the recommendations of the 'Guidance in determining the suitability of applicants and Licensees in the Hackney Carriage and Private Hire trades for Hackney Carriage and Private Hire Drivers' document.

Requirement for Consultation

It is proposed that a 4 week consultation will take place on a draft Suitability/Fitness Policy in order that Stakeholders in the Taxi trade, other interested parties, interested organisations and members of the public will have an opportunity to comment on the proposed Policy. The proposed policy is attached at (**Appendix C**).

Responses from the consultation will be taken into consideration and the final policy along with any comments received will be reported.

Legal Implications

All decisions taken by or on behalf of the Council must

- a. be within the legal powers of the Council;
- b. comply with any procedural requirement imposed by law;
- c. be within the powers of the body or person exercising powers on behalf of the Council;
- d. be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations;
- e. be fully and properly informed;
- f. be properly motivated;
- g. be taken having regard to the Council's fiduciary duty to its taxpayers; and
- h. be reasonable and proper in all the circumstances.

Recommendations

It is recommended that the Committee considers the content of this report and resolve to:

- a) Approve the review of its Suitability Policy for Hackney Carriage and Private Hire Licensing,
- b) Approve the need to consult with the trade and the wider public (including relevant local organisations) on the draft Suitability/Fitness Policy (Hackney and Private Hire Drivers and owners) Policy.

Policy: The Council will provide services that contribute to a healthy environment, healthier lives and protect those who are vulnerable in the County.

Budget: Within budget

Human Rights Act: Compliant

Integrated Impact Assessment: Not yet completed. Following the consultation on the review of the suitability policy, a first stage impact assessment will be undertaken to assist the Authority in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.

Statutory powers: Licensing Act 2003, Gambling Act 2005

Background papers: Institute of Licensing Guidance in determining the suitability of applicants and Licensees in the Hackney Carriage and Private Hire trades (April 2018)

Service area: Policy, Performance and Public Protection

Contact name: Anne-Louise Davies

Designation: Trading Standards & Licensing Manager

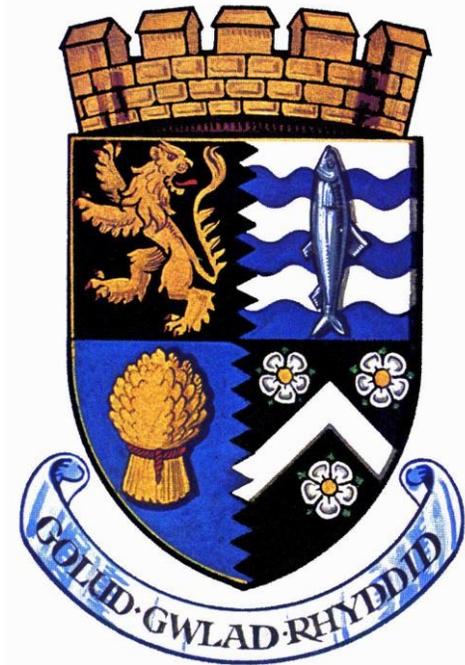
Date of report: 31st August 2021

Appendix A - Ceredigion County Council's current Suitability Policy

Appendix B - Guidance on determining the suitability of applicants and licensees in the hackney and Private Hire Trades

Appendix C - Draft Ceredigion County Council Suitability Policy

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Hackney Carriage and Private Hire Licensing Policy

Fitness Criteria for Drivers and Operators

DATE: 1st July 2014

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1.0 Introduction

1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage driver, private hire driver or private hire operator's licence.

1.3 The aim of this policy is to protect the safety of the public. The Licensing Authority is concerned to ensure that a person is a fit and proper person to hold a licence. In doing so it will consider various factors including the following:

- That the person does not pose a threat to the public;
- That the public are safeguarded from dishonest persons;
- The safeguarding of children and young persons;
- The safeguarding of vulnerable persons;
- That the public have confidence in their use of licensed vehicles.

1.3 This policy aims to provide guidance to any person with an interest in public and private hire licensing, in particular, but not exclusively:

- Applicants for driver / operator licences
- Existing licensed drivers / operators whose licences are being reviewed
- Licensing Officers
- The Police
- Members of the Licensing Committee (or other relevant decision making body)
- Magistrates and Crown Court hearing appeals against local authority decisions

1.4 The grant, renewal or suspension of an application for a hackney carriage and/or private hire driver's licence will normally be delegated to an authorised officer of the Licensing Authority. Licensing officers will utilise these guidelines when making a decision to grant a licence. In appropriate cases, applications for licences will be referred to the Licensing Committee (or other relevant decisionmaking body). Whilst officers and the Committee/Sub-Committee will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits** and, where the circumstances demand, the Committee/Officer may depart from the guidelines.

1.5 Where applicants/licence holders fail to disclose any previous convictions; cautions; warnings; penalty notices, orders or reprimands on their application

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form including any pending court proceedings or other matters they may be referred to the Licensing Sub-Committee for determination.

2.0 General policy

2.1 Each case will be decided on its own merits.

2.2 A person with a conviction for an offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- c. Remain free of conviction for an appropriate period (as set out below); and
- d. Show evidence that he or she is a fit and proper person to hold a licence the onus is on the applicant to produce such evidence.

2.4 For the purposes of this Policy, “other matters to be considered” may include but are not limited to the following:

- a) Criminal / motoring convictions;
- b) Court Martial;
- c) Cautions;
- d) Fixed penalty notices or other penalty notices;
- e) Anti-social behaviour orders or other similar orders;
- f) Breach of licensing conditions;
- g) Formal Warnings or Reprimands;
- h) Charges or matters awaiting trial;

2.4 Where an applicant has a conviction(s) or other matter(s) the Council cannot review the merits of the conviction or other matter.

2.5 Where an applicant / licence holder has a conviction or other matter to be considered for an offence of aiding, abetting, attempting, conspiring, counselling, procuring, causing, permitting or inciting any of the criminal or motoring convictions / matters specified in this guidance, they will be considered relevant for the substantive matter.

3.0 Appeals

3.1 Any applicant who has been refused a hackney driver, private hire driver and/or private hire operator’s licence, or a licensed driver / operator whose licence has

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been suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of receipt of the decision notice.

4.0 Powers

- 4.1 Powers to grant driver / operator licences are contained within Section 51, Section 55 and Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act). The Local Authority shall not grant a licence to drive a hackney carriage, private hire vehicle or an Operator's Licence unless they are satisfied the applicant is a fit and proper person to hold such a licence.
- 4.2 Powers to suspend, revoke or refuse to renew a driver's licence are contained within Section 61 of the Act, where the applicant/licence holder has been convicted of an offence involving dishonesty, indecency or violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.3 Section 61 (2B) allows the Licensing Authority, if it appears in the interests of public safety, to suspend or revoke a driver's licence with immediate effect. A Decision Notice explaining why this decision has been taken will be served on the driver and will take effect when the notice is given to the driver. The driver may appeal this decision but may not drive during the appeal period.
- 4.4 Section 62 of the Act allows the Licensing Authority to suspend, revoke or refuse to renew an operator's licence if the applicant/licence holder has been convicted of an offence under or non-compliance with the provisions of Part II of the Act; or grounds of any conduct on the part of the operator which appears to the Council to render him unfit, or due to any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted or any other reasonable cause.
- 4.5 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the Licensing Authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

5.0 Consideration of disclosed criminal history

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5.1 Under the provisions of Sections 51, 55, and 59, of the Act, the Licensing Authority is required to ensure that an applicant for the grant or renewal of a driver / operator licence is a 'fit and proper' person to hold such a licence. However, if an applicant / licence holder has any matters to be considered, the Licensing Authority may take into account:

:

- How relevant the offence(s) are to the licence being applied for;
- How serious the offence(s) were;
- When the offence(s) were committed;
- The date of conviction and age of applicant at time of conviction;
- Sentence imposed by the court;
- Whether they form part of a pattern of offending;
- Any other factors that might be relevant.

6.0 Violence

6.1 Licensed drivers have close regular contact with the public. An application will normally be refused or existing licence suspended or revoked if the applicant / licence holder has a conviction for an offence that involved the loss of life.

6.2 In other cases, anyone who demonstrates a propensity to violence is unlikely to be licensed until **at least 3 years** free of such conviction(s) or other matter(s) to be considered. However, given the range of the offences that involve violence, consideration must be given to the nature of the offence.

6.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 5 years** prior to the date of application:

- Affray;
- Assault occasioning actual bodily harm;
- Common assault;
- Criminal damage;
- Assaulting or Obstructing an authorised officer;
- Resisting arrest
- Possession of a weapon (or imitation weapon) or any other weapon related offence other than a firearm;
- S5 Public Order Act 1986 offence (harassment, alarm or distress);
- S.4 Public Order Act 1986 offence (fear of provocation of violence);
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress);

□

Similar offences or offences which replace the above:

6.4 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 10 years** prior to the date of application:

- Any aggravated offences relating to hate crime, i.e. with violence
- Arson;
- Grievous bodily harm with intent;
- Malicious wounding or grievous bodily harm which is racially aggravated; □
Possession of firearm;
Riot;
- Robbery;
- Violent disorder;
- Similar offences or offences which replace the above.

□

6.5 An application will normally be refused or existing licence suspended or revoked where the applicant / licence holder has a conviction for an offence such as:

- Murder;
- Manslaughter;
- Manslaughter or culpable homicide while driving;
- Terrorism offences;
- Or any similar offences or offences which replace the above.

6.6 An application will normally be refused if an applicant has more than one conviction or other matter to be considered in the last **10 years** for an offence of a violent nature.

6.7 The Licencing Sub-Committee will normally revoke a private hire or hackney carriage driver's licence where the holder has been convicted of an offence involving obstruction towards or, the use of violence or threatening behaviour towards a police officer or authorised officer of the licencing authority

7.0 Sex and indecency offences

7.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence such as:

□

- Assault by penetration;
- Exploitation of prostitution;
- Indecent assault;
- Offences involving children or vulnerable adults;
- Possession of indecent photographs, child pornography etc;
- Rape;
- Sexual assault;
- Trafficking for sexual or other exploitation;
- Similar offences or offences that replace the above.

7.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction(s) or other matter(s) to be considered is **less than 7 years** prior to the date of application:

Indecent exposure;

- Soliciting (kerb crawling);
- Similar offences or offences which replace the above.

7.4 The Licensing Authority is unlikely to grant a licence to any applicant who is currently on the Sex Offenders Register.

7.5 An application will normally be refused if an applicant has more than one conviction or other matter to be considered of a sexual nature.

8.0 Dishonesty

8.1 An applicant or existing licence holder is expected to be a trustworthy person. Licensed drivers deal with cash transactions and valuable property which may be left in their vehicles. Licence holders are required to deposit such property with police within 24 hours. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by the local currency and may be vulnerable to an unscrupulous driver. For all these reasons, an applicant's/licence holder's character must be beyond reproach.

8.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for an offence listed below and the conviction or other matter to be considered is **less than 5 years** prior to the date of application:

□

- Benefit fraud;
- Burglary
- Conspiracy to defraud;
- Forgery;
- Fraud;
- Handling or receiving stolen goods;
- Obtaining money or property by deception;
- Other deception;
- Taking a vehicle without consent;
- Theft;
- Similar offences or offences which replace the above.

- 8.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the above offences and has not been free of conviction(s) or other matters to be considered for at least 3 years for
- Making a false declaration or statement to an authorised officer undertaking his/ her duties in order to gain a licence.

9.0 Drugs

9.2 A serious view is taken of any drug related offence. The Licensing Authority will consider the nature and quantity of the drugs involved within the following offences:

- Cultivation of a controlled drug;
- Importation of a controlled drug;
- Production of a controlled drug;
- Supply of a controlled drug; □ Possession of a controlled drug
- Or similar offences.

9.2 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the above offences and has not been free of conviction(s) or other matters to be considered for **at least 5 years**.

9.3 An application will normally be refused or an existing licence suspended or revoked where the applicant has more than one conviction or other matter to be considered for offences related to the possession of drugs and has not been free of conviction or other matter to be considered for **at least 5 years**.

9.4 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has an isolated conviction or other matter to be considered for an offence related to the possession of drugs within **the last 3 years**. Consideration should be given to the nature and quantity of the drugs involved.

9.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required. If the applicant was an addict then they would normally be required to show evidence of **3 years** free from drug taking.

9.6 If there is evidence of persistent alcohol use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards or similar) may be required. Evidence would normally be required to show a period of **3 years** free from alcohol use.

10.0 Driving offences involving the loss of life

10.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the offences listed below and has not been free of conviction or other matter to be considered for **10 years**.

- Causing death by careless driving whilst under the influence of drink or drugs;
- Causing death by dangerous driving;
- Or any similar offences.

10.4 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction(s) or other matter(s) to be considered for any of the offences listed below and has not been free of conviction or other matter to be considered for **7 years**.

- Causing death by careless driving;
- Causing death by driving: unlicensed, disqualified or uninsured drivers.
- Or any similar offences

11.0 Driving with excess alcohol / Drunk in charge/ Driving whilst under the influence of Drugs

11.1 A single conviction or other matter to be considered may not result in an application being refused or an existing licence being suspended or revoked, provided that **at least 3 years** have elapsed since the ending of the disqualification. A conviction or other matter to be considered for 'refusing or failing to provide a specimen' will be treated in the same way.

11.3 Applicants with more than one conviction or other matter to be considered for driving or being in charge of a vehicle under the influence of alcohol / drugs or refusing or failing to provide a specimen are unlikely to be granted a licence unless a period of **10 years** has elapsed after the restoration of the driving licence following the last conviction or other matter to be considered.

12.0 Motoring Offences & Penalty points

As professional drivers with the potential of carrying fare paying passengers, in vehicles licensed by the Local Authority, it is essential that the standard of driving of applicants or licence holders is beyond reproach.

Points on DVLA Licence	Application process
1 - 3 points	Will not usually result in refusal or revocation and will not be referred to Licensing Sub-Committee
4 - 6 points	Will not usually result in refusal or revocation but may be referred to

	Licensing Sub_Committee and/or other sanctions imposed
7 -12 points	Will be referred to Licensing SubCommittee
12 points +	Will be referred to Licensing SubCommittee - Unlikely to be granted

12.1 Major Traffic Offences

12.2 For the purposes of this Policy, other than those described at paras. 10 and 11 of this policy above, the following motoring offences are described as 'Major Traffic Offences':

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
DD40	Dangerous driving
DD90	Furious driving
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

- 12.3 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a conviction or other matter to be considered for a Major Traffic Offence and has not been free of the conviction or other matter to be considered for **at least 12 months**.
- 12.4 An applicant with more than one Major Traffic Offence, within the last 5 years will normally be refused and no further application should be considered until a period of **at least 3 years** free from such convictions or other matters to be considered have elapsed.
- 12.5 If any conviction or other matter to be considered for a Major Traffic Offence results in a disqualification, applicants should refer to the section of these guidelines entitled "disqualification from driving" below.
- 12.6 Disqualification from driving (excluding drink driving / driving under the influence of drugs)**
- 12.7 The Licensing Authority will treat a period of a disqualification as being that which a driver would have been eligible to serve, and may disregard the decision of a court to waive or reduce a disqualification period either on the grounds of exceptional hardship under S.35 of the Road Traffic Offenders Act 1988 or for "special reasons" under S.34 of the Road Traffic Offenders Act 1988.
- 12.8 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matter to be considered resulting in a period of disqualification of less than 56 days unless a period of **at least 6 months** has elapsed from the end of the disqualification period.
- 12.9 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matter to be considered resulting in a period of disqualification of up to 12 months unless a period of **at least 12 months** has elapsed from the end of the disqualification period.
- 12.10 An application will normally be refused or an existing licence suspended or revoked where the applicant / licence holder has a recent conviction or other matters to be considered resulting in a period of disqualification of 12 months or more, unless a period of **at least 24 months** has elapsed from the end of the disqualification period.
- 12.11 The Licensing Authority will not normally grant an application for a private hire or hackney carriage driver's licence from a person who has been disqualified from

driving for a period of 5 years or more, unless a period of at least **7 years** has elapsed from the end of the disqualification period.

13.0 Minor Traffic Offences

13.1 Other Traffic Offences not listed within this policy will be treated as 'Minor Traffic Offences'. A Minor Traffic offence is one that incurs between 1 and 3 penalty points.

13.2 Where an applicant / licence holder has one conviction or other matter to be considered for a Minor Traffic offence, this will not usually result in refusal or suspension / revocation.

13.3 More than one Minor Traffic offence conviction or other matter to be considered may result in a refusal, particularly where there are several convictions or other matters to be considered for the same offence e.g. speeding. A licensed driver may be referred to the Licensing Sub-Committee.

14.0 Outstanding charges or summonses

14.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but in the interest of public safety the application may be deferred for determination until those proceedings are concluded.

15.0 Non-conviction information

15.1 If an applicant or existing licence holder has been arrested or charged, but not convicted, for a serious offence which suggests he/she could be a public safety risk, consideration should be given to refusing or suspending / revoking the application / licence.

16.0 Repeat offending

16.1 While it is possible that an applicant may have a number of convictions or other matters to be considered that individually meet the above guidelines, an application will normally be refused where an applicant has a record of repeat offending unless a period of **at least 10 years** has elapsed since the most recent conviction or other matters to be considered.

17.0 Breach of Licensing Legislation, Byelaw or Condition

17.1 An applicant who has a conviction or other matters to be considered for a breach of licensing legislation, byelaw or condition is unlikely to be granted a licence unless a period of **at least 12 months** has elapsed since the most recent breach.

17.2 An existing licence holder found to be in breach of legislation, byelaw or condition is on the first occasion, likely to be warned in writing as to future conduct, provided that the breach did not compromise the safety of passengers or that the public were not put at risk.

17.3 Where an existing holder is found to have more than one breach of licensing legislation, byelaw or licence condition, or a single serious breach, the Licensing Sub-Committee may suspend or revoke the licence.

17.4 The above applies irrespective of any legal proceedings which may be pending or have been taken.

Licences issued by other Authorities

Where an application for a hackney carriage and/or private hire driver's licence has been referred to the Licensing Sub-Committee for determination, and the applicant already holds such a similar licence granted by another Local Authority, the guidance in this policy shall take precedence over any decision of another Authority.

Overseas Residents

If an applicant has spent 6 or more months overseas, the Licensing Authority will expect to see evidence of a criminal record check from the country or countries covering that period.

Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:

 **LLG**
Lawyers in Local Government

 **NALEO**

 **Local Government Association**



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Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC
Cornerstone Barristers

April 2018

Chapter 1: Introduction

- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications¹. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.

¹ Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*².
- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

Chapter 2: Offenders and Offending - An Overview

² [2007] 1 WLR 2067

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.³ With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of reoffending and harm⁴. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

³ DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

⁴ Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud⁵ noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place⁶.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future⁷. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%⁸. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences⁹.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity¹⁰. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population^{11,12}. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

⁵ Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁶ Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

⁷ Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

⁸ Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

⁹ Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

¹⁰ McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

¹¹ Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”¹³.
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”¹⁴.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over¹⁵. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships¹⁵. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males¹⁶.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist¹⁷. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more

¹³ National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

¹⁴ Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

¹⁵ Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364. ¹⁵ Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

¹⁶ Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

¹⁷ Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

hire trades

one comes to see the benefits of desistance¹⁸¹⁹. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”²⁰.

2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

¹⁸ Maguire, M., Morgan, R. and Reiner, R. (2002). *The Oxford Handbook of Criminology*. 3rd Edition. Oxford: Oxford University Press.

¹⁹ |

²⁰ Kurlychek, M C, Brame, R (2007). *Scarlet letters and recidivism: Does an old criminal record predict future offending?* University of South Carolina.

Chapter 3: 'Taxi' Licensing Overview

- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

Taxi Drivers

3.10 The term “taxi driver” encompasses two different occupations: hackney carriage drivers and private hire drivers. “Taxi driver” is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person²¹.

3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.

3.13 An applicant must also have the right to remain, and work in the UK²².

3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.²³

3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*²⁴. Silber J said:

“... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”

3.16 This is reflected in a test widely used by local authorities:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or

²¹ Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

²² Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

²³ “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1st December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-rightto-work-checks>

²⁴ [2002] EWHC 1145 (Admin), [2003] RTR 199

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partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’²⁵

3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers’ licence?

3.19 The local authority has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”²⁶

This “information” can include any pre-conditions or tests that they consider necessary

3.20 Some of these are universal, such as medical assessments²⁷. Others are required by some authorities, but not others. These include:

- Enhanced DBS certificates and sign-up to the update service;
- Knowledge tests;
- Driving tests;
- Disability Awareness;
- Signed Declarations;
- Spoken English tests.

3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared²⁸) can be taken

²⁵ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 10.21

²⁶ Local Government (Miscellaneous Provisions) Act 1976 s57(1)

²⁷ See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

²⁸ “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker²⁹.

- 3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks³⁰ and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.
- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability³¹.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account³². This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It

²⁹ See *Adamson v Waveney District Council* [1997] 2 All ER 898

³⁰ "For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children's Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2" DBS email 31st August 2017.

³¹ As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

³² *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

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should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.

- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.
- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the

trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority³³. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person³⁴.
- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the

³³ See *Dittah v Birmingham City Council, Choudhry v Birmingham City Council* [1993] RTR 356 QBD

³⁴ Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

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knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”³⁵

- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.
- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation³⁶. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence³⁷ and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.

³⁵ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 12.35

³⁶ See s57(1)(c) of the 1976 Act.

³⁷ S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.



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3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.

3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”³⁸

³⁸ Button on Taxis – Licensing Law and Practice 4th Ed Bloomsbury Professional at para 8.98

Chapter 4: Guidance on Determination

- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

Vehicles:

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;

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- Wheelchair accessibility requirements.

Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff; □ Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership³⁹) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

³⁹ Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction⁴⁰. Fixed penalties and community resolutions will also be considered in the same way as a conviction⁴¹.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.

⁴⁰ This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

⁴¹ This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.

4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.

4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

4.29 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

4.30 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

4.31 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

4.32 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

Dishonesty

4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Drugs

4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Private Hire Operators

4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire

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vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.

4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.

4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.

4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.

4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.

4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.

4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.

4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

Acknowledgements

In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

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This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

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hire trades

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Cyngor Sir
CEREDIGION
County Council

**STATEMENT OF POLICY REGARDING THE SUITABILITY OF
APPLICANTS AND LICENSEES IN THE HACKNEY CARRIAGE AND
PRIVATE HIRE TRADES**

DRAFT

Draft 20/08/2021

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1.0 Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper, or safe and suitable (refer to section 3.13) person to hold a licence.
- 1.1 This document aims to provide guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:
- Applicants for driver / operator licences
 - Existing licensed drivers / operators whose licences are being reviewed
 - Licensing Officers and Police
 - Members of the Licensing Committee/ Panel (or other relevant decision making body)
 - Magistrates and Crown Court hearing appeals against local authority decisions
- 1.2 This policy is largely based on the 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' produced by the Institute of Licensing (2018). As a result, some sections of this policy will read as a form of 'guidance for all', and the rationale for keeping this information within this policy is simple; the reasoning employed by decision makers should be consistent and transparent. The additional information provided therefore serves to 'set the scene' and better inform all of those involved or interested in this area.
- 1.3 Additionally, this policy is closely aligned to the Institute of Licensing's guidance because this authority recognises that a consistent approach is required across the country to ensure that public safety is at the forefront of decision making.
- 1.4 The only amendments that have been made from the guidance produced by the Institute of Licensing are to reflect specific Ceredigion County Council requirements or to give definitive statements.
- 1.5 This policy will be immediately applied to all new licences. In addition, any existing licensees that have been considered as "fit and proper" under the previous conviction policy, will have "grandfather rights". However, should any existing licensee re-offend (either criminal or motoring), all previous convictions will be taken into account at the time of renewal or when the Council has been notified of such offence.
- 1.6 The Council reserves the right to overturn a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered which result in an individual no longer being considered fit and proper.
- 1.7 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.

- 1.8 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.9 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.10 This policy takes a 'bright line approach' and says "never", but it should be noted that it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority* (2007).
- 1.11 Section 2 this policy explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.10 and elsewhere in this document.
- 1.12 This policy contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation.

2.0 Offenders and Offending – An Overview

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public. With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including

previous convictions, cautions and complaints and the time elapsed since these were committed.

- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of reoffending and harm. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

Risk of re-offending

- 2.6 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance (Maguire et al, 2002). Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past” (Kurlychek et al, 2007).
- 2.7 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

3.0 ‘Taxi’ Licensing Overview

- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver’s hands.

- 3.2 Local authorities are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the Department for Transport (DfT) "Taxi and Private Hire Licensing – Best Practice Guide", paragraph 8 which states: "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion and additional information on the requirements for Ceredigion can be found within the full Hackney Carriage and Private Hire Policy.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.

Taxi Drivers

- 3.9 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory criteria to be met before a licence can be granted and this licensing authority issue "dual" or "combined" licences to cover driving both types of vehicle.
- 3.10 The specific requirements of an application for this authority are outlined within the Hackney Carriage and Private Hire guidance attached to the application form. This includes the requirement to hold a full DVLA licence, have the right to work in the UK and pass a knowledge test. In addition to this, the individual must also be a "fit and proper" person.
- 3.11 It is the whole issue of "fit and proper" that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain* (2003). Silber J said:

"... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical

fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”

3.12 This is reflected in a test widely used by a number of local authorities, including Ceredigion County Council:

‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’

3.13 This authority recognises that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

3.14 The local authority has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.” Local Government (Miscellaneous Provisions) Act 1976 s57(1)). All requirements are detailed within the Hackney Carriage and Private Hire Driver application form.

3.15 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.

3.16 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker. **NOTE:** “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates. In all cases an enhanced DBS Certificate is required on first application and on a three yearly cycle thereafter.

3.17 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.

3.18 Case law makes it clear that the impact of losing (or not being granted) a driver’s licence on the applicant and his family is not a consideration to be taken into account (Leeds City Council v Hussain, 2002).

- 3.19 It is vital that Councillors recognise that this policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.20 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.
- 3.21 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.22 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.23 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.

Private Hire Operators

- 3.24 A private hire operator ("PHO") is the person who takes a booking for a private hire vehicle ("PHV"), and then dispatches a PHV driven by a licensed private hire driver ("PHD") to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same authority. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person.
- 3.25 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the

vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.

- 3.26 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.27 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used: "Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"
- 3.28 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.
- 3.29 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

Vehicle Proprietors

- 3.30 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as "taxis"). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver's licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.31 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.

- 3.32 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.33 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process is applied as for private hire operators – Basic disclosure, statutory declaration and consideration of spent convictions. This will then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.34 A suitable test would be: “Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”.

4.0 Guidance on Determination

- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to set out how this licensing authority can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, this policy can and will say ‘never’ but each case will still be considered on its own merits.

Pre-application requirements

- 4.5 This authority has its own specific pre-application requirements for drivers, vehicles and operators and they can be seen within the relevant sections of the hackney carriage and private hire policy and/or on the appropriate application form.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.
- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution. Fixed penalties and community resolutions will also be considered in the same way as a conviction. This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.

- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.
- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare or disclose convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution. Licence holders must be aware of this and the requirement to notify the Council, in writing, within 72 hours, of any conviction, caution, arrest etc, whether it be motoring or criminal etc.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for

safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.

4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this policy, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.

4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.

4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.

4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence imposed upon conviction (or the date of conviction if a fine was imposed) before a licence will be granted.

Crimes resulting in death

4.29 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

4.30 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional, physical or financial abuse, but this is not an exhaustive list.

Offences involving violence

4.31 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

4.32 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

Dishonesty

4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Drugs

4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

4.42 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Hackney carriage and private hire offences

4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Vehicle use offences

4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Private Hire Operators

4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must

be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.

4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.

4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic disclosure certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that will lead to the operator's licence being revoked.

4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

Vehicle proprietors

4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.

4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.

4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.

4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.

4.54 As public trust and confidence in the overall safety and integrity of the system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

20/08/2021 – Draft

Cyngor Sir CEREDIGION County Council

Item No.

Report To:	Licensing Committee (Non Statutory Committee)
Date:	16 th September 2021
Time:	10:00 am
Location:	Virtual Meeting
Title:	Report on the Proposal to Review Ceredigion County Council's Statement of Licensing Policy relating to Hackney Carriage and Private Hire Vehicles, Drivers and Operators.
Purpose of report:	To inform Members of the Committee of the requirement to review the current Hackney and Private Hire Policies and seek its approval to consult on the Policy review.

Background

Ceredigion County Council's current Statement of Licensing Policy relating to Hackney Carriage (taxi) and Private Hire Vehicles, Drivers and Operators has been in place since 2015. With new statutory standards published by the Department for Transport (DfT) (**Appendix A**), along with new recommendations published by the Welsh Government (**Appendix B**), it is necessary for the existing policy to be reviewed so that these new standards and recommendations can be incorporated.

In July 2020, the Department for Transport (DfT) published Statutory Taxi & Private Hire Vehicle Standards with the focus on protecting children and vulnerable adults

Following a detailed consultation undertaken by the DfT, there was clear evidence and consensus that common core minimum standards are required to better regulate the taxi and private hire vehicle sector.

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.

In March 2020, 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 public safety across Wales. The recommendations form the basis for further development by Welsh Government into national standards.

There are five reasons outlined by Welsh Government to adopt the recommendations, the first being public safety. The public should be able to expect a licensed driver to be competent, honest, safe and trustworthy. There have been numerous reports in recent years involving child exploitation which have made it clear that weak and ineffective arrangements for taxi licensing in England and Wales left the public at risk. These new recommendations hope to rectify this by improving public safety across Wales as well as improving the standards set for private hire operators and also includes the safety of vehicles. The other reasons for adopting the recommendations are:

- better consistency of standards across Wales,
- harmonised enforcement,
- increased accessibility of vehicles in wales and
- better standards of customer service.

Changes to the Statement of Licensing Policy

It is proposed that the Statement of Licensing Policy becomes one large document encompassing all the other supplementary policies and conditions that relate to taxi and private hire licensing. This will hopefully simplify matters for applicants and licensees as all the necessary documents will be available in one place.

The DfT statutory standards and the Welsh Government's Harmonisation of Taxi and Private Hire Vehicle Licensing recommendations will bring about many changes to our current Statement of Licensing Policy. In summary, the main changes 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 and
- 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 Statement of Licensing Policy every 5 years in accordance with the DfT's Statutory Standards.

Consultation

It is proposed that a 4 week consultation will take place on a draft Statement of Licensing Policy which incorporates the new Statutory Standards published by the DfT and the recommendations set out by Welsh Government.

Responses from the consultation will be taken into consideration and the final policy along with any comments received will be reported upon for approval.

Achievability

This report contains no equality personnel or property implications.

Legal Implications

All decisions taken by or on behalf of the Council must:

- a. be within the legal powers of the Council;
- b. comply with any procedural requirement imposed by law;
- c. be within the powers of the body or person exercising powers on behalf of the Council;
- d. be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations;
- e. be fully and properly informed;
- f. be properly motivated;
- g. be taken having regard to the Council's fiduciary duty to its taxpayers; and
- h. be reasonable and proper in all the circumstances.

The DfT Statutory Taxi & Private Hire Vehicle Standards state:

"1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.

1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Police and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would cease, to apply.

3.5 Licensing Authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually."

The Welsh Government's Harmonisation of Taxi and Private Hire Vehicle Licensing in Wales document states:

"6. The recommendations in Part II of this guide are seen as a starting point for change in order to address some of the existing problems, and improve standards and consistency. In order to achieve this it is strongly recommended that each local authority in Wales adopt these recommendations on a voluntary basis (where they are not already in place)."

Recommendations

It is recommended that the Committee consider the contents of the report and resolve to:

- a) Approve the review of its Statement of Licensing Policy relating to the Hackney Carriage (Taxi) and Private Hire Vehicles, Drivers and Operators in line with the new DfT Statutory Standards and the Welsh Government's Harmonisation of Taxi and Private Hire Vehicle Licensing Recommendations.
- b) Approve the need to consult with the trade and the wider public (including relevant local organisations for example; accessibility groups) on a draft Statement of Licensing Policy.

Policy: The Council will provide services that contribute to a healthy environment, healthier lives and protect those who are vulnerable in the County.

Budget: Within budget

Human Rights Act: Compliant

Statutory powers: Licensing Act 2003, Gambling Act 2005

Background papers: Department for Transport, Taxi and Private Hire Licensing Guide: Best Practice Guide; Welsh Government Cabinet Written Statement: Launch of "Guide to Harmonisation of Taxi and Private Hire Vehicle Licensing in Wales"

Service area: Policy, Performance and Public Protection

Contact name: Anne-Louise Davies

Designation: Trading Standards & Licensing Manager

Date of report: 31st August 2021

Appendix A - Department for Transport, Taxi and Private Hire Licensing Guide: Best Practice Guide

Appendix B – Welsh Government Guide to Harmonisation of Taxi and Private Hire Vehicle Licensing in Wales



Department
for Transport

Statutory Taxi Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children’s and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department’s Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

"It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride."

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

"Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction."

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years but should also consider interim reviews should there be significant issues arising in their area and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.

4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.

4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice and based on the information before you would you allow a person for whom you care regardless of their condition to travel alone in a vehicle driven by this person at any time of day or night

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety licensing authorities should not as part of their policies issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – ‘*Together, we can tackle child abuse*’ which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording □ CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should as a condition of granting an operator licence require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a [responsible organisation](#) to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

- (a) that he has since the grant of the licence

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.



Llywodraeth Cymru
Welsh Government

GUIDANCE

Taxi and private hire vehicles: licensing guidance

Guidance for local authorities to ensure operators and vehicle drivers meet licensing requirements.

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Foreword

Taxis and private hire vehicles (PHVs) provide a vital public service connecting people to places when alternative public transport services are not available or viable. Taxis perform a vital service to some of the most vulnerable members of society especially in rural areas where there are no other forms of public transport, taxis also deliver a significant contribution to the night time and tourism economy. The support taxis give to our communities cannot be underestimated and the industry is a vital component in our ambitions for public transport in Wales, as set out in the Wales Transport Strategy.

Despite the importance of this sector to our public transport ambitions, the industry remains governed by laws made when the horse drawn hackneys were a common feature on our streets. Put simply, the law is complicated, outdated and is in need of reform. Taxi and PHV licensing is a devolved matter under the Wales Act 2017. Until Welsh Government introduces new legislation, the current licensing legislation that applies to England and Wales will continue to apply.

The primary responsibility for taxis licensing sits with local authorities and local authorities have over many years developed different licencing regimes. These differing standards and the antiquated legislation have in some areas of Wales caused difficulties in safely managing the trade.

Welsh Government are developing new legislation and will be engaging with key

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stakeholders over the next 12 months to ensure this meets the needs of the sector. Our long-term aim is to produce a licensing system with a focus on, public safety, equality, improving the environment and customer experience.

The new legislation will take some time to develop properly. Consequently, Welsh Government has been working with the Welsh Local Government Association and taxis licencing leads from Local Authorities from across Wales to develop some short term recommendations to help to better manage the sector between now and the new legislation being and place.

These recommendations are a step towards achieving a consistent, more effective approach to taxi and PHV licensing in Wales. The main focus of the recommendations is to promote safety of the travelling public. We want to ensure that all Wales's taxi and PHV drivers, operators and vehicles are safe and suitable for licensing.

The recommendations in this guide have identified areas that could improve public safety consistently across Wales. If the national and local governments in Wales are going to be able to provide a consistent, more effective and safer approach to taxi and PHV licensing in Wales, prior to new legislation being enacted, I would request that all local authorities adopt these recommendations without amendment as a priority.

Part 1: background and reasons to adopt recommendations

1. Introduction

Taxis (also known as hackney carriages) and private hire vehicles (PHVs) are a vital form of public transport. They deliver a practical door to door transport solution. They provide an essential service to the following:

- People living in rural communities where other forms of public transport are insufficient
- People using the night-time economy

- Passengers with mobility issues

They also play an important role in facilitating social inclusion.

The current legislation relating to taxis and PHVs is out of date, with the main legislation dating back to 1847 and 1976. The legislation allows flexibility around the content of policies and licence conditions. This has contributed to inconsistent policies, standards and conditions across England and Wales.

There are approximately 5,000 licensed taxis, 5,400 private hire vehicles and 12,000 licensed drivers in Wales.

It is clear that the taxi and PHV industry is progressing and adapting faster than the legislation governing it. The introduction of app-based booking and hailing systems has made it quicker and easier for customers to hire vehicles. In some areas this has led to an increase in the prevalence of 'out of town' vehicles and has highlighted the inconsistencies in licensing standards across Welsh local authorities.

In some areas of Wales there is an over-supply of licensed vehicles. This can make it difficult for the taxi and PHV industry in those areas to make a decent living. In other parts of Wales there can be an under-supply of licensed vehicles. In particular disability groups have expressed that it is often difficult to hire vehicles that suit their needs.

The age of the legislation can make administration and enforcement functions challenging for local authorities. For example, enforcement officers do not automatically have powers to take action against 'out of area' drivers/vehicles operating in their area.

The licensing regime needs to be updated to remedy the current problems; ensure that the taxi and PHV licensing system is fit for modern Wales; and promote public safety.

Taxi and PHV licensing is a devolved matter under the Wales Act 2017. Until such time that Welsh Government introduces new legislation, the current national licensing legislation that relates to England and Wales will continue to

apply.

The aim of the recommendations in Part 2 of this guide is to improve the consistency of licensing standards and increase public safety.

2. Background

In December 2018, Welsh Government published the White Paper 'Improving Public transport'. The consultation focused on four proposals:

1. The creation of National Standards to address the variation in taxi and PHV standards across Wales
2. The extension of enforcement powers to allow local authority officers to take enforcement against any taxi/PHV operating in their area
3. The establishment of effective information sharing protocols for the purposes of safeguarding
4. The possible redirection of taxi and PHV licensing functions away from local authorities and towards a Joint Transport Authority (JTA)

The responses to the consultation show strong agreement to proposals one to three. See the [Improving Public Transport consultation outcome](#).

Proposal four was the least popular with local authorities and taxi/PHV trade representatives. Of the 402 responses to this proposal, only 17% answered 'yes' they would agree to licensing functions being redirected to a JTA.

In July 2019, Minister for Economy, Transport and North Wales, Ken Skates AM, made a written statement in response to the White Paper consultation. He accepted there was general support for the proposals 1 to 3, but agreed there was strong feeling that plans did not go far enough to address the challenges faced by the industry and regulators. As a result the Minister stated that the taxi and PHV proposals would be developed further.

3. Welsh Government vision

To take forward the policy development, Welsh Government has developed a

Vision Statement with the following aim:

‘Our aim is to update Wales’s taxi and PHV licensing system to make it fit for a modern Wales. We want to create one consistent standard applied across Wales that promotes safety, contributes to a cleaner environment, improves the customer experience, and is accessible by all.’

The vision statement focuses around the following four themes:

1. Safety: national standards will aspire to ensure that operators, vehicle and drivers are safe and suitable for licensing. Regulators will have the necessary powers to undertake effective enforcement when required.
2. Environment: cleaner licensed vehicles will contribute to national targets for a cleaner environment and reduction in greenhouse gases.
3. Equality: the aim is to ensure that all passengers, regardless of their gender or any disability, have access to suitable vehicles. Drivers and operators will provide a service that fits customer needs.
4. Customer experience: the intention is that all customers in Wales will access a good taxi service. Vehicles will be available, accessible, safe, and driven by suitable drivers that provide good customer service.

4. Outline of recommendations

In response to the White Paper consultation, it was accepted that ‘quick fixes’ could improve some of the current issues. It is intended that the recommendations could be adopted by local authorities without needing legislative change.

The recommendations within this guide have been developed by representatives of Welsh Government, the Welsh Local Government Association (WLGA) and local authority representatives through the Public Protection Board Wales. This guide is used as non-statutory guidance.

The recommendations detailed in part 2 of this guide are designed to:

- improve public safety
- increase consistency
- improve the customer experience

So far as is possible without changes in legislation, and without unreasonable cost to licensing authorities and the taxi and PHV industry.

These recommendations alone will not solve all the challenges associated with the existing licensing regime, but they will provide some improvements. They will form the basis for further development by Welsh Government into national standards.

The Department for Transport's 'Statutory Taxi and Private Hire Vehicle Standards' are considered in the drafting of this guide, and adoption of the recommendations in part 2 of this guide will support compliance with a number of the recommendations in the standards. These standards apply to Wales, until such time that Welsh Government introduces new legislation.

5. Reasons to adopt the recommendations

a) Public Safety

The main purpose of licensing is to protect the public. It aims to ensure that drivers, operators and vehicles are safe and suitable to transport the public.

Drivers

Taxis and PHVs are used by all cross sections of society including children, and vulnerable adults. Members of the public across Wales should expect that a licensed driver is competent, honest, safe and trustworthy.

In March 2016, the Home Office published its Modern Crime Reduction Strategy. As part of the Strategy, the UK Government has committed to remove opportunities for criminals to commit child sexual abuse and violence against women and girls, by working with local areas to introduce rigorous taxi and

private hire licensing regimes.

Both the Jay and Casey reports on child sexual exploitation in Rotherham highlighted examples of taxi drivers being linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited in exchange for free taxi rides.

The Casey Report made it clear that weak and ineffective arrangements for taxi licensing had left the public at risk. In response to the reports and in contribution to the Home Office's Modern Crime Reduction Strategy, the Department for Transport has recently published statutory standards for local authorities for the licensing of taxis and private hire vehicles.

The Welsh Government National Action Plan Preventing and Responding to Child Sexual Abuse (June 2019) stated that more could be done across Wales in terms of consistent arrangements for safeguarding training for taxi drivers.

It is important that all possible actions to ensure that licensed drivers are safe and suitable be taken into account. In relation to licensing drivers, it is considered that the adoption of the following recommendations will enhance public safety across Wales:

- enhanced DBS checks and use of DBS Update Service
- checks on applicant's that have lived abroad for more than 6 months
- standardised medical checks
- use of the NR3 refusal/revocation register
- safeguarding training
- applicant and licence holder suitability policy

Vehicles

To ensure public safety, local authorities necessitate various licensing requirements for taxis and PHVs such as vehicle testing standards, age restrictions and vehicle specifications. These requirements aim to confirm that vehicles are suitable and remain safe for public use.

Across Wales, licensing requirements differ significantly and it is considered too costly at this stage to attempt to harmonise these policies and conditions ahead of any legislative change.

Presently, the main area of vehicle licensing agreed for harmonisation is the type and use of vehicle CCTV systems (both internal and external facing cameras).

Vehicle CCTV systems are a useful tool in the prevention and investigation of crime. It can provide protection to both the driver and passengers.

Taxi drivers frequently transport passengers who are intoxicated, which can pose a risk to their safety. They also often carry large sums of cash which can make them a target of robbery. CCTV may act as a deterrent to such crimes.

Taxi drivers are sometimes falsely accused of crimes. This can result them to being out of work for some time if their license is suspended/revoked pending the investigation. CCTV may assist in disproving false allegations in a timely manner.

Currently there are no local authorities in Wales that require the mandatory use of CCTV, but many allow it on a voluntary basis. The cost of a suitable CCTV system can be expensive, and local authorities are required to develop extensive policies and risk assessments if they mandate the use of CCTV in their licensed vehicles.

Some local authorities in England that have required the mandatory use of CCTV have been able to offer reduced rates through various funding initiatives.

Although the mandatory use of CCTV is something that Welsh Government may consider in future national standards, this stage an agreed specification for proprietors that wish to install a system on a voluntary basis is considered beneficial. The specification will ensure that systems are safe and compliant with current data protection requirements.

Local authorities will need to ensure that they have Privacy Impact Assessments and Data Download Policies in place when approving the use of in-vehicle CCTV systems.

Private Hire Operators

Private hire operators often collate large amounts of personal data and are in a position of trust. For example, they may be aware of when people are away from their properties on holiday. It is thus important that local authorities establish that operators are 'fit and proper' for licensing.

Operators are also often the first point of call for passengers wishing to complain about the service they have received from a taxi/PHV driver. In some cases relevant information is not always fed back to the licensing authority, who may need to decide on whether a driver remains 'fit and proper' to continue as a licensed driver.

In drafting the recommendations, local authority representatives felt that private hire operator conditions could be improved across Wales, with additional requirements for notification of offences and documented complaints procedures.

b) Consistency

Local authorities currently create their own taxi and PHV licensing policies and conditions. This means that requirements for licences differ substantially across the 22 authorities in Wales.

The taxi and PHV trade often see this as unfair and claim that in some areas it adds to problems of 'cross-border hire'. There are assertions that some applicants licence with local authorities that have lower licensing requirements and then predominantly undertake private hire work in other areas of higher demand. This practice is lawful but can lead to problems in some areas such as:

- increased traffic congestion,
- an over-supply of licensed vehicles in towns/cities which can reduce a driver's income,
- confusion for the public as the vehicle they hire may be licensed by a different licensing authority,
- unfairness for the taxi /PHV trade in terms of required standards,

- enforcement limitations as local authority officers have restricted powers against 'out of town' vehicles.

Without standardised licensing requirements and fees across Wales, it is recognised that the problems of cross-border hire will remain. However, the recommendations in part 2 of this guide have been created as a first step to improving consistency across Wales.

c) Enforcement

Harmonised driver and operator licence conditions across Wales will help to improve the consistency of enforcement.

In addition it is recommended that a protocol for the adoption of cross-border authorisation of officers is introduced in areas that have problems with cross border hire. A suggested protocol is detailed in the Local Government Association's Taxi and PHV –Councillor's Handbook (England and Wales).

Such protocols facilitate enforcement officers to take more effective action against 'out of town' vehicles working in their area.

d) Accessibility

Welsh Government's plan is that Wales's taxis and PHVs are accessible by all. There are many documented accounts from members of the public that have experienced problems accessing taxi and PHV services in Wales.

One in five people in the UK (13.3 million) are reported to have a disability; of those only 26% of those reporting a disability are under the age of state pension. Mobility impairments are the most prevalent type of disability and account for 49% of impairments.

Wales is higher than the UK average in terms of reported disabilities with 25% of people reporting a disability as opposed to the UK average of 21%.

In 2017 Disability Wales undertook a survey to capture the experiences of

disabled people using taxi and PHVs across Wales. They found that 78% of respondents to the survey identified as disabled, and 64% of respondents stated that they experienced problems when using taxis or PHVs. Problems highlighted in the survey included:

- lack of accessible vehicles;
- refusal to take passengers in wheelchairs or those with assistance dogs;
- overcharging;
- driver inability to secure wheelchairs correctly.

There is further work to be done to make certain that passengers with disabilities do not continue to experience these types of problems.

Part 2 details a procedure for licensed drivers seeking exemptions to their duties under the Equality Act 2010. It is anticipated that this will evoke a consistent approach to the issuing of exemption certificates and make certain that only those with genuine reasons under the legislation can be exempt from their duties.

In addition, a suggested licence condition applicable to proprietors/drivers of wheelchair accessible vehicles aims to ensure that all drivers are able to deploy wheelchair ramps correctly and load and secure wheelchairs safely.

It should be noted that the matters contained within the Equality Act 2010 are a reserved matter, and as such will continue to have affect in Wales after such time that new taxi licensing legislation is introduced.

e) Customer service

Local Authority Officers have expressed that many of the complaints they receive relate to driver's conduct and behaviour. This can be particularly difficult to deal with in terms of enforcement if there is no clear breach of legislation or licence condition. It comes down to deciding whether a driver is 'fit and proper' to continue as a licensed driver.

A driver Code of Conduct has been developed to assist licensed driver's understanding of what level of service and behaviour is expected of them. It

should be communicated to drivers that failure to meet the standard required in the Code could cause concern about their suitability to continue as a licensed driver. The Code can also assist the public in understanding what standard of service they can expect.

A driver Dress Code has also been developed to ensure that drivers' clothing is of a suitable standard and they maintain a professional appearance.

Welsh Government aims to increase the professionalisation of the taxi and private hire industry to ensure that the trade offers excellent customer service and act as ambassadors for Wales.

6. Conclusion

Welsh Government has a vision of how the taxi and PHV trade should evolve in Wales. This will involve the introduction of new legislation to transform the outdated licensing regime.

This Guide is issued as non-statutory guidance. The recommendations in Part II of this guide are seen as a starting point for change in order to address some of the existing problems with the licensing regime, improve standards and consistency. In order to achieve this it is strongly recommended that each local authority in Wales adopt these recommendations (where they are not already in place) for the reasons outlined above.

When making changes to Licensing Policies it is recommended that local authorities should consult with local stakeholders and undertake impact assessments where necessary.

When making changes to Licensing Policies it is recommended that local authorities should consult with local stakeholders and undertake impact assessments where necessary.

Adoption of the recommendations in this guide will also support compliance with many of the recommendations of Department for Transport's 'Statutory Taxi and Private Hire Vehicle Standards'.

Part 2: recommendations

It is recommended that the following policy wording and measures are incorporated into the licensing authority's hackney carriage and PHV licensing policy, and the documents in the appendices are adopted.

Local authorities should follow their usual procedures when reviewing their licensing policy statements.

1. Driver standards

a) DBS check

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.

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'.

b) 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.

c) Medical checks

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](#)

d) Equality Act medical exemption policy

The Equality Act 2010 places a number of legal duties on licensed drivers when transporting passengers with disabilities.

In order to improve compliance with the requirements of the Equality Act, the Policy detailed in **Taxi and private hire vehicles: Equality Act medical exemption policy** should be adopted with regards to driver medical exemptions from the obligations concerning the carriage of assistance dogs and passengers in wheelchairs.

e) Driver conduct

It is expected that licensed drivers behave in a professional manner and provide a high quality service at all times.

The **taxi and private hire driver's code of conduct** has been developed to outline the standards expected of licensed drivers and is an integral part of the 'fit and proper' assessment.

The Code also serves to advise potential passengers of the level of service they should expect when hiring a licensed vehicle.

f) Driver dress code

It is recognised that the taxi trade, both Hackney Carriage and Private Hire, plays an important role in portraying a positive image of the area and drivers can be seen as key ambassadors for Wales.

Anything that serves to enhance the professional image of the Hackney Carriage and Private Hire trade, and promotes the concept that drivers of licensed vehicles are professional vocational drivers, is to be welcomed.

To ensure that not only are the above objectives are met but, also that driving is carried out safely, a Dress Code for licensed drivers has been set, which is detailed in **Taxi and private hire vehicles: dress code**.

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g) Private hire driver conditions

The conditions of licence applicable to drivers of private hire vehicles are detailed in [Private hire vehicle drivers: licensing conditions](#).

h) Safeguarding training

Hackney carriage and private hire drivers have an important responsibility in the safe transportation of fare paying passengers. Drivers are expected to act in a professional manner at all times and provide excellent customer service.

Licensed drivers can often be the eyes and ears of a community. Training can be important in assisting licensed drivers in recognizing when they carrying passengers at risk of abuse and exploitation.

All new applicants for a hackney carriage/private hire driver's licence must undertake safeguarding training. The training focuses on recognising what makes adults and children vulnerable, violence, sexual exploitation, county lines and human trafficking indicators. It includes examples of suspicious journeys as well as information on maintaining professional boundaries.

The training is in the form of the following video and a test based on the content of the video must be passed prior to obtaining a licence.

Watch the video: [Safeguarding training for Hackney Carriage and Private Hire drivers and passenger assistants](#)

2. Vehicle standards

a) DBS check

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 private hire operator's 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. The guidance is detailed in the Institute of Licensing's '[Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades](#)'.

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.

b) 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, 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.

c) Vehicle Closed Circuit Television Cameras (CCTV)

Security for drivers and passengers is of paramount importance and internal vehicle CCTV cameras can be a valuable deterrent.

The use of an internal vehicle CCTV system must be approved by the Licensing authority, and must meet or exceed the specifications set out in **Taxi and private hire vehicles: CCTV specifications and conditions**.

The system must be capable of both visual and audio recordings (in emergency situations).

Conditions in relation to CCTV systems are included in the hackney carriage and private hire vehicle licence conditions.

It is the responsibility of the licensed driver to make certain that the CCTV system is fully operational at the start of each shift and before accepting a fare paying passengers.

d) Video Point of Impact Systems (VPIS) / Dash cams

The licensing authority allows the use of VPIS systems (external facing dash

cams) in hackney carriage and private hire vehicles. The proprietor of any vehicle fitted with a VPIS system must comply with the conditions set out in [Taxi and private hire vehicles: dash cam policy](#).

e) Accessibility

Designated wheelchair accessible vehicles (WAVs) must be able to facilitate the carriage of disabled persons and accommodate a disabled person in a 'reference' wheelchair* in the passenger compartment.

*A reference wheelchair is defined in Schedule 1 of the [Public Service Vehicles Accessibility Regulations 2000](#).

Proprietors have a responsibility to ensure that any licensed driver who drives one of their wheelchair accessible vehicles is made aware of their duties in respect of carrying disabled persons in wheelchairs when driving a licensed wheelchair accessible vehicle.

The following condition of licence should apply to proprietors of WAVs:

The proprietor of a licensed wheelchair accessible vehicle must demonstrate to every driver of the vehicle how to assist a passenger in a wheelchair into and out of the vehicle and correctly secure the wheelchair in the vehicle. This will include showing the driver how to deploy the ramp(s) and how to use and adjust the restraints. The proprietor must keep a record of this demonstration and include the following:

- a) The date of the demonstration
- b) The name and licence number of the driver
- c) A signed and dated acknowledgment by the driver that the demonstrating has taken place and he/she clearly understands how to transport a passenger in a wheelchair into the vehicle

The proprietor must retain this record for as long as the driver is using the vehicle. If the driver rents the vehicle again in future the proprietor must repeat

the demonstration and record.

In the case that the proprietor is also the licensed driver of the vehicle, the proprietor shall record a signed acknowledgement to certify that he/she can perform the vehicle manufacturer's instructions on how to safely transport a wheelchair passenger into and out of the vehicle and how to secure the wheelchair.

3. Private Hire Operator Standards

a) DBS Check

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.

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.

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. The guidance is detailed in the Institute of Licensing's '**Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades**' .

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.

b) Private Hire Operator conditions

The conditions of licence applicable to private hire vehicle operators are detailed in [Private hire vehicle operators: licensing conditions](#).

4. General policy

a) Licence holder self-reporting

All Licence holders are required to notify the issuing authority within 48 hours of any arrest and release for any sexual offence, any offence involving dishonesty or violence and any motoring offence. Further notifications to the licensing authority must be made within 48 hours of any charge and any conviction. Failure by a to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

b) National register for hackney carriage and private hire licence revocations and refusals (NR3)

The Licensing authority provides information to the National Register of Taxi Licence Refusals and Revocations (NR3), a mechanism for licensing authorities to share details of individuals who have had a hackney carriage or Private Hire Vehicle (PHV) licence revoked, or an application for one refused. This is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the licensing authority – that is, assessing whether an individual is a fit and proper person to hold a hackney carriage or PHV licence.

Therefore:

- Where a hackney carriage/ PHV licence is revoked, or an application for one refused, the authority will automatically record this decision on NR3.
- All applications for a new licence or licence renewal will automatically be checked on NR3. If a search of NR3 indicates a match with an applicant, the

authority will seek further information about the entry on the register from the authority which recorded it. Any information received as a result of an NR3 search will only be used in respect of the specific license application and will not be retained beyond the determination of that application.

The information recorded on NR3 itself will be limited to:

- name
- date of birth
- address and contact details
- national insurance number
- driving licence number
- decision taken
- date of decision
- date decision effective

Information will be retained on NR3 for a period of 25 years.

This is a mandatory part of applying for being granted, a hackney carriage / PHV driver licence. The authority has a published policy on the approach it will take to requests by other authorities for further information about entries on NR3, and about the use it will make of any further information provided to it.

Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR). Any searches, provision or receipt of information of or under NR3 are necessary to the authority's statutory licensing functions of ensuring that all drivers are fit and proper to hold the applicable licence. It is not intended that any NR3 data will be transferred out of the United Kingdom.

If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer at [insert contact details] This includes submitting a subject access request.

You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling

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of data can be found on the ICO's website: [Make a complaint](#).

c) Cross border enforcement

Where it becomes apparent that either a number of vehicles licensed by this authority are undertaking the majority (i.e. over 50%) of private hire work in another local authority area, or when it is evident that a number of vehicles licensed by another local authority are undertaking the majority of private hire work in this area, the licensing authority will endeavour to develop enforcement protocols with those local authorities.

In these circumstances the following protocol (as described in the Local Government Association's Taxi and PHV Licensing- Councillor's handbook) will be followed:

- All authorities agree what level of expertise/qualification/skills is the minimum for approval of authorisation of each individual.
- All authorities establish, via their own schemes of delegation, what procedural steps need to be taken to validly authorise (i.e. chief officer's report, sub-committee or full committee decision).
- All authorities agree the form and wording of the 'letter of authorisation' and 'photo warrant card' to be issued.
- Each 'requesting council' formally requests authorisation of named individual officers.
- Each 'receiving council' obtains authorisation and provides a 'letter of authorisation' in respect of the other authority's officers.
- Each employing authority provides its own officers with a photo warrant card specifying that for the purposes of [specify Acts of Parliament] that officer [name] is a duly authorised officer of [list all authorising councils].
- Each authority provides all officers with copies of appropriate bylaws, conditions and agreed methodologies/reporting mechanisms for dealing with defective vehicles and other issues from other areas.
- Each authority seeks political and financial approval for pre-planned joint operations both with each other and also police/HMRC Customs & Excise.
- Data sharing protocols, as required, be established between authorities, including standard incident reporting templates/operation logs to be used by

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all for consistency and scheme recording.

d) Suitability policy

In order to assess 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.

The guidance is detailed in the Institute of Licensing's '[Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades](#)'.

e) Department for Transport (DfT) Statutory Taxi and Private Hire vehicle standards

DfT's Statutory Taxi and Private Hire Vehicle Standards sets out a framework of policies under Section 177 (4) of the Policing and Crime Act 2017 that licensing authorities "must have regard" to when exercising their functions.

In order to safeguard children and vulnerable adults the licensing authority is committed to implementing the recommendations of the DfT's Statutory Taxi and Private Hire Vehicle Standards, wording of this Policy has been amended to take account of the Standards.

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