



# **Joint Operating Framework for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing in Oxfordshire**

**Between**

**Oxford City Council  
South Oxfordshire District Council  
Vale of White Horse District Council  
West Oxfordshire District Council  
Cherwell District Council  
Thames Valley Police  
Oxfordshire County Council**

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# 1. Introduction: Local and National Context

The Oxfordshire Joint Operating Framework (JOF) for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing was commissioned by the Child Sexual Exploitation Sub-Group of Oxfordshire Safeguarding Children Board (OSCB), and is the result of collaboration between the City and District Councils, the county council and the police. Health partners have reviewed their processes separately.

OSCB recognised the risks involved in transporting children and adults with care and support needs, and the opportunities provided by taxi and private hire drivers to spot the signs and alert the appropriate authorities to concerns about the safety of children and adults with care and support needs. Taxis and private hire vehicles regularly transport passengers who may be vulnerable, for example when the passenger is under the influence of drink or drugs or is travelling alone, hence the need to promote the highest safeguarding standards to protect both passengers and drivers.

The JOF provides a single set of minimum standards for agencies with responsibilities for transporting children and adults with care and support needs in Oxfordshire, including addressing vetting, training, awareness raising, information sharing, policy alignment, enforcement activity and quality assurance and monitoring.

It has been developed as a direct result of the learning from the Bullfinch investigation into historical child sexual exploitation in Oxford, the subsequent Serious Case Review into child sexual exploitation of Children A-F (published in March 2015) and the findings of the Stocktake Report set up to review Oxfordshire's current approach to tackling child sexual exploitation (published in July 2015).

The Joint Targeted Inspection of Child Sexual Exploitation and Children Missing in Oxfordshire in March 2016 found that "Oxfordshire now has a highly developed and well-functioning approach to tackling exploitation: "Work in relation to taxi licensing and hotels are seen as "important steps in building community confidence in the recognition and reporting of safeguarding issues."

In May 2013 the Bullfinch investigation resulted in seven men being sentenced to a total of 95 years in prison for a range of child sexual exploitation offences in Oxford. The Serious Case Review identified that a number of the victims had spoken of being transported in licensed vehicles to locations where offences took place. The review recommended that Licensing Authorities in Oxfordshire seek harmonisation of taxi and private hire licensing standards across the county and this Operating Framework is a product of that work.

The 2015 Stocktake Report was positive about the local progress made and recommended that the county council and all districts had to work more closely together to ensure that the regulation of the contracts to transport vulnerable children and taxi licensing across Oxfordshire is more robust.

At a national level in February 2015, a report was published into the failings of Rotherham Metropolitan Borough Council to protect young people in the city from child sexual exploitation. The report, written by Louise Casey, recommended improvements to the authority's taxi licensing function and these have also been taken into account in drawing up this framework. Examples of good practice in Sheffield and other areas have also informed its development.

## 2. Background Information

### 2.1 Legal Framework

Hackney carriage (taxi) and private hire vehicle legislation is primarily concentrated in the Town Police Clauses Act 1847 (hackney carriage) and the Local Government (Miscellaneous Provisions) Act 1976 (both hackney carriage and private hire).

The legislation provides a broad framework for the licensing of drivers, vehicles and operators but the detail of how this is done, including standards and conditions, is the responsibility of individual councils. There are a number of other Acts which also have an impact; for example the Equalities Act 2010, which enables regulations to improve wheelchair accessibility to licensed vehicles.

Vehicles carrying over eight passengers are regulated by the Department of Transport, under the Public Passenger Vehicles Act 1981.

### 2.2 Deregulation Act 2015

In March 2014 the Government published amendments to what became the Deregulation Act 2015. In effect this Act has reduced some of the safeguards operating previously.

Section 10 of the Deregulation Act 2015 makes a requirement on Authorities to set a standard duration of three years for a taxi and PHV driver's licence and a standard duration of five years for a PHV operator's licence. A lesser period may be specified only if appropriate in a particular case.

In addition, section 11 of the Act makes changes to cross border hiring by allowing a PHV operator to sub-contract a PHV booking to another operator who is licensed in a different licensing district. The onus is on the original operator who accepts the booking and subsequently passes it on, to retain the liability for the satisfactory completion of that journey. It is also clear there is a duty on the operator who takes the booking to keep a full record and to report the full record of that journey.

### 2.3 Terminology

#### 2.3.1 The Licensing Authority

Each Oxfordshire district council provides the Licensing Authority function for hackney carriage and private hire drivers, vehicles and operators within their local authority area. A private hire operator does not employ its drivers; they are self-employed. A number of drivers may drive the same vehicle if they have the appropriate licence, and the vehicle proprietor holds the appropriate motor insurance.

It is the authority's responsibility to:

- set the local framework including driver, vehicle and operator standards and conditions, and specifically for hackney carriage the tariffs and appropriate number of licensed vehicles
- consider applications and granting, reviewing, suspending or revoking licences
- Investigate and respond to complaints concerning hackney carriage or private hire drivers/operators
- undertaking inspection and enforcement activities of all licence holders

The Licensing Authority has the power to attach conditions to private hire drivers, private hire vehicles and private hire operators under the 1976 Act. Hackney carriage drivers and vehicles are dealt with by way of byelaws adopted following the 1847 Act. It should be noted, that many Councils now issue Hackney Carriage and Private Hire Driver Dual Licences meaning that the conditions relating to private hire can be attached to such a licence.

### 2.3.2 Hackney Carriage Vehicles (HCV)

HCVs commonly known as taxis or cabs are able to wait on a taxi rank and be hailed on the street within the district within which they are licensed. The vehicle can only be driven by a hackney carriage driver licensed by the same authority as the vehicle. They can be booked directly by a customer or operate undertaking private hire bookings for a private hire operator anywhere in the country.

### 2.3.3 Private Hire Vehicles (PHV)

PHVs include a range of vehicles such as minicabs, executive cars, limousines and chauffeur services. These vehicles must be pre-booked through a private hire operator and cannot legally be hailed on the street or wait on a rank. Should a passenger get in a PHV which has not been pre-booked the licensed driver is operating unlawfully and their insurance will be invalidated. The vehicle can only be driven by a private hire driver licensed by the same authority as the vehicle and operator, and all bookings must be provided to the driver by the operator.

### 2.3.4 Public Service Vehicles (PSV)

PSVs carry over eight passengers and are licensed by the Department for Transport, not local authorities.

### 2.3.5 Taxi Licensing: A “Fit and Proper Person”

The “fit and proper” test considers whether someone should serve the public, with particular regard to the range of passengers that a driver may carry. For example, the elderly, unaccompanied children, people with disabilities, those who have had too much to drink, lone women, foreign visitors and unaccompanied property. The test is centred upon:

**Honesty and trustworthiness** – drivers often have knowledge that a customer is leaving a house empty and have responsibilities for passengers who are vulnerable or do not know the locality.

**Not abusive** – drivers can be subject to unpleasant or dishonest behaviour. Drivers are expected to avoid confrontation, and to address disputes through the proper legal channels.

**A good and safe driver** – passengers paying for a transport service rely on their driver to get them to their destination safely. They are professional drivers and should be fully aware of and comply with all Road Traffic legislation and conditions attached to the licence.

### 2.3.6 Enforcement

Councils do not have the power to stop vehicles; only the police can do this. Therefore officers can only intervene when a vehicle is stationary, and they are unable to do anything if it drives off except follow up at a later date. Councils can only take action against a vehicle or driver that it

has licensed, so **cannot** enforce against a vehicle or driver licensed elsewhere whilst operating in their area, **unless** they have been given delegated authority by the licensing authority. Officers **can** enforce against hackney carriages licensed elsewhere if the driver is plying for hire within the officer's district as they are operating as an unlicensed hackney carriage. However, the Government has identified concerns raised by many Licensing Authorities regarding drivers and vehicles deliberately seeking a licence from a district that the driver and vehicle have no intention of working within, in order to obtain either a) a cheaper licence, b) where standards are less robust, and c) to avoid being able to be enforced against.

### 2.3.7 Cross-border hiring

The biggest risk to the safety of the public and the reputation of the taxi and private hire trade, and in turn the reputation of Licensing Authorities is the legal loophole that allows a driver and vehicle to be licensed as hackney carriage by one Licensing Authority and operate as private hire vehicle in another authority's area. The driver does not require a licence from the Licensing Authority where the driver carries out work for the Private Hire operator who gives the driver bookings. The Local Government Associations Councillors Handbook for Licensing describes the issue very well:

“... the issue of cross-border hiring is perhaps the most acute problem facing many councils today. In one recent example, a driver applied to a council for a licence only to be refused after the police presented concerns to the licensing committee; the driver then applied to the neighbouring council, which was given the same information by the police but chose to licence the driver. The driver now operates in the first council's area and there is nothing they can do to stop it.”

### 2.3.8 Enhanced DBS checks for taxi drivers.

Drivers who work under contract to transport children (also known as school transport services) frequently i.e. once a week or more or more than 3 times in a 30 day period, are considered as partaking in regulated activity. This is a prescribed position in Police Act Criminal Record Regulations 2002 and therefore they are subject to an enhanced Disclosure Barring Service (DBS) check.

Even if a driver is not transporting children regularly they still require an Enhanced DBS for the Licensing Authority with Adult and Children Barring List checks

### 2.3.9 The Disclosures and Barring Update Service

Drivers are required to subscribe to the DBS Update Service to reduce costs and speed up checks. The Disclosures and Barring Update Service must be applied for within 21 days after the applicant has been issued with a Disclosures and Barring Service report. The service will then only supply information or list offences which have occurred after the date of that original check.

As a result Licensing Authorities must ensure that the original DBS report application was made at an enhanced level, and have sight of that original report.

Authorities responsible for the transportation of children/adults with care and support needs must ensure that the update service subscription was based on an enhanced check for the role of a 'taxi driver' and they must have sight of the original DBS check report.

### 3. Oxfordshire's Minimum Safeguarding Standards

#### 3.1 Vetting

##### 3.1.1 Documents Checklist to obtain a Hackney Carriage and Vehicle for Hire

All licensing authorities will ensure the following documents/processes are in place.

New Hackney Carriage and Private Hire Drivers Licence	Renewal licence
Application Form	Application Form
Passport and Proof of National Insurance number or other document from a prescribed list e.g. P45, full birth certificate, work permit	Passport and Proof of National Insurance number or other document from a prescribed list
Proof of address- 1 proof within 2-3 months	Proof of address - proof within 2-3 months
Visa, residency card/proof of entitlement to work in the UK	Visa, residency card/proof of entitlement to work in the UK
Photographs for ID badge 2 minimum passport size	Photographs for ID badge 2 minimum passport size
Current licence to drive a motor vehicle minimum months 12 and DVLA mandate consent form	Current licence to drive a motor vehicle minimum months 12
Mandatory Safeguarding Awareness Training through Oxfordshire County Council	Revised every 3 years
Enhanced DBS check for 'other workforce' and 'children and adults' every 3 years*.	Every 3 years.
Taxi Drivers will sign up to the Update Service (A5 leaflet will be provided)	DBS – A renewal licence will not be given unless the DBS check has been returned, or a check can be made on the Update Service
Face to face interview held	Every 3 years
Information leaflets issued	Information leaflets issued
English language competency assesses during appointment, followed by the knowledge test, including verbal assessment. If spoken English is not deemed adequate application will be denied and referred to a spoken English course	
Knowledge Test (including safeguarding)	
Disability awareness course	
Medical report As listed in the DVLA Group 2 Guidance: <a href="https://www.gov.uk/guidance/current-medical-guidelines-dvla-guidance-for-professionals">https://www.gov.uk/guidance/current-medical-guidelines-dvla-guidance-for-professionals</a>	



\*If an Authority requires a DBS check for the role of taxi driver and that person falls within regulated activity for children (such as schools contract transportation), then two separate checks should be requested.

The first check, for the role of a 'Taxi driver', does not fall within the requirements for regulated activity, and as such that check must be listed as 'other work force' on the DBS application. By specifying 'other work force' on the DBS application the level of information which may be disclosed on the enhanced report is restricted.

This first DBS check is applied to all licensing Authorities, where the applicant is applying for a Hackney Carriage/Private Hire driver's licence.

### **3.1.2 Vetting to become approved transport provider with the County Council for children and adults with care and support needs**

Taxi drivers who work under contract to transport children frequently are considered as partaking in regulated activity and so a second DBS will be undertaken potentially providing additional intelligence because the driver is to have substantive contact with children. This check falls within the requirements of regulated activity, and as such the check must be listed as 'Taxi driver' on the DBS application. By specifying 'taxi driver' on the DBS the level of information on the enhanced report is not restricted.

When a driver applies for a badge or renewal with the county council, the vetting process covers the following:

- Collation of full details on the driver.
- Information sharing with the licensing authority
- Enhanced DBS checking through initial face to face appointment to check documents
- Checks on whether the driver is known to Children's Social Care because of any safeguarding concerns regarding his own family.
- Risk assessment if there is a concern following process identified in g) below.

### **3.1.3 Licences**

The Deregulation Act 2015 makes a requirement on Authorities to issue a licence for a maximum duration of 3 years, or less – but if less must be done so on a "case-by-case" basis.

### **3.1.4 Code of Conduct for Taxi Drivers and Hackney Carriage drivers and drivers and escorts of contract holders at the County Council**

The Code of Conduct is made available to all drivers and escorts. Failure to comply with the Code of Conduct will result in a review of the Identification Badge and appropriate action will be taken (as set out below). Information sharing arrangements across the districts and county council are included in the Code of Conduct. Where appropriate, non-compliance will be brought to the attention of the relevant Licensing Authority.

### **3.1.5 Enforcement Procedures**

#### **Enforcement Procedures for Licensing Authorities – Warning System**

- Issue of warning (appropriate and proportionate to the incident reported and in line with the district council's enforcement policies).
- Issue of higher level warning (appropriate to incident and having regard to history)
- If caught for a criminal offence /plying for hire a request will be made for an interview to be held in accordance with Police and Criminal Evidence Act. (PACE may only be used when the authority is investigating with a view to prosecution). Referral to Law and Governance department/legal adviser to consider prosecution will be made for criminal offences and plying for hire. Appeals can be made to the Magistrates Court.
- When reaching the highest warning level a decision will be made by senior management or to refer to relevant licence committee or take further action under delegated powers.

#### **Enforcement and Quality Monitoring for Oxfordshire County Council Transport Hub and Quality Monitoring Team**

- Quality assurance processes are in place to ensure the Local Authority Designated Officer (LADO), the Transport Hub, Disabled Children Manager and the Adult Social Care Safeguarding Manager review complaints and investigations regularly.
- Complaints and providers are classified by risk (Red, Amber, Green) based on number of complaints, level of seriousness, compliance with contract requirements and any other soft information.
- Providers who are classified as Red are not allocated work. Providers rated as Amber are given a specified time period to make agreed improvements or become Red.
- The Information Sharing Protocol requires the Transport Service to notify the appropriate Licensing Authority of all substantiated concerns, in order that the Licensing Authority can consider the "fit and proper" status of the driver, vehicle, operator, in order to uphold its public safety and safeguarding objectives.

### **3.1.6 Action and criteria for decision making if there is a conviction or intelligence**

All past convictions, warnings, reprimands, , cautions, community service orders, restraining orders and fixed penalties (including traffic offences), civil remedies and anti-social behaviour notices will be considered against Home Office guidelines. The Rehabilitation of Offenders Act 1974 as amended by the Legal Aid, Sentencing and Punishment Act 2012 sets out the period after which all convictions, warnings, reprimands, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) are regarded as 'spent' and which would not normally necessitate disclosure.

In 2002 the Rehabilitation of Offenders Act was amended so as to exclude hackney carriage and private hire drivers from the effects of the 1974 Act. Applicants for such licences are now required to disclose all convictions, warnings, reprimands, cautions, community service orders, restraining orders and fixed penalties (including traffic offences) including those that would previously have been regarded as spent under the Act. The council will use the Rehabilitation of Offenders Act 1974 as guidance but in every case the individual facts will be considered in accordance with the criteria set out in policies

The Local Government Miscellaneous Act 1976 (Licensing of Hackney Carriages (47) and Private Hire Vehicles (48)) provides that Councils can set a criteria of how the provisions will be implemented: <http://www.legislation.gov.uk/ukpga/1976/57/part/II>

The following information must be disclosed on every application form, or within 7 working days of the conviction.

<b>Traffic Convictions</b>	<b>Police recommendation</b>
<b>Major Traffic offences</b>	<b>Indecency Offences /sex offence register</b>
<b>Plying for hire</b>	<b>Violence</b>
<b>Drunkenness</b>	<b>Dishonesty</b>
<b>Drugs</b>	<b>Behaviour Guidelines issued</b>
<b>Police Bail</b>	<b>Police Investigations/Cautions</b>

Note: Some Motoring Offences are notifiable only for a period of three years.

### **Conviction/serious crime**

All spent offences are to be considered at every application.

Crime and Criminal Offences need not result in permanent bar but there would be an expectation that there would be at least three years or more (depending upon nature of offence) of being free from conviction. In addition there can be exclusions for offences such as sexual offences and drugs offences, requiring at least five years clear from convictions.

**Cautions and Convictions** are never treated as spent in relation to licensed drivers, and an Authority can refuse a licence to any person where they believe that older offences would lead to concerns that the person is not fit and proper.

The taxi licensing data set would collect data on drivers with convictions being licensed to enable monitoring of standards in relation to this area.

Applicants are required to inform the Authority of all offences, cautions, arrests, or Police investigations. If non-compliance occurred this would be taken into account in assessing the risk in relation to the driver.

Licensing Authorities will require, through the driver licence conditions that a driver must inform the police that they are a taxi driver when arrested or interviewed under caution.

At the conclusion of an on-going police investigation the licensing officers should not merely accept a No Further Action letter or Not Guilty finding, if the police have been unable to share adequate information then there needs to be an application for a new DBS certificate, as the threshold for prosecution or conviction is not the same as the “fit and proper person” test. The DBS may reveal Additional Information relevant to the decision-making process. (a licencing authority may ask the individual to cover the cost of a new DBS).

The Policy statements set out the “minimum” criteria applicable, not the “maximum” criteria applicable.

### **3.1.7 Risk Management Process**

Where there is a conviction the Licensing Authority follows the risk management process identified below and if the taxi company is seeking to become an approved transport provider with the county council a second risk management process will be undertaken.

#### **The Licensing Authority Process**

- Where it is considered that there is a concern and that action may be required District Councils share this information with the Transport Hub and Quality Monitoring Team, who undertake further checking, including with the Local Authority Designated Officer (LADO) and Adult Safeguarding.
- The Licensing Authority licence number and name is included to enable faster sharing of information if any relevant matter appeared on the applicant's DBS. Further details are to be found in the Information Sharing Protocol Section.
- Investigation and risk assessment undertaken based on seriousness and date of the offence. Depending on risk level a recommendation is made to a Sub-Committee/Member Panel/Officer with delegated powers to determine outcome.
- There is a right of appeal to officer/member panel and final appeal to Magistrates Court.
- The County Council will be informed of this decision.
- Licensing Authorities' policies relate to the minimum standards any applicant or licence holder should meet, and any decision to depart from their policies should be taken only following legal advice, and any such decision should be clearly documented.

#### **Oxfordshire County Council Process**

A driver is required to bring a copy disclosure and completed questionnaire.

Risk Assessment Panel meeting is held to consider the risk (based on the scoring set out in the County Council Risk Assessment Guidance).

- Panel to make a recommendation;
- A decision letter is sent including information on how to Appeal;
- Appeal meeting with an Independent Panel of senior managers and /or members;
- A decision letter is sent giving information on how to Appeal;

### **3.1.8 Information sharing where there is a new offence**

There is differential practice regarding whether and when the police will inform licensing authorities and the county council of a new offence or arrest using the definition 'pressing social need', because the interpretation of this is subjective.

Thames Valley Police Force is reviewing whether a strategic approach could be taken to this so that all offences by taxi drivers within agreed categories could result in an automatic notification.

The police share information in three ways:

- disclosure on a DBS Certificate,
- application by a partner to the Joint Information Management Unit of Thames Valley Police for information on a specific individual,

- or the release of information from a police officer making a Common Law Disclosure based on the information available to them.

Risk Assessment processes are followed in accordance with the previous section.

### **3.2 Mandatory Training**

All Licensing Authorities require taxi drivers to attend the mandatory safeguarding training commissioned by Oxfordshire County Council so a single standard is in place.

In addition to the Mandatory training facilitated by Oxfordshire County Council, the Licensing Authorities all have the following further criteria in place that all new driver and operator applicants must meet when making a licence application.

#### **3.2.1 Local Knowledge Test**

New applicants must pass a knowledge test, devised so that applicants can prove that they have sufficient knowledge of the conduct required of licensed drivers and local traffic regulations, and display an awareness of the issues relating to the safeguarding of children and vulnerable persons.

It covers the following areas:

- The local geography of the district and surrounding region, including the location of public buildings such as hospitals, leisure centres and important regional transport links such as airports or train stations.
- The Councils' hackney carriage and private hire licensing policy (as set out in this handbook), taxi law.
- The Highway Code.
- Safeguarding and child sexual exploitation.
- Equal opportunities and disability awareness.

There is an 80% pass mark. If the test is failed the driver will be invited to take the test again after a further test fee has been paid, and then allocated a retest date.

English language competency is also tested as part of the initial vetting process.

#### **3.2.2 Licensing Authority Disability Awareness Training**

A driver must attend a Licensing Authority approved Disability Awareness Course and obtain the required pass mark as a pre-condition to receiving a licence. The course provides the driver with a clear understanding of the requirements placed upon them when supporting people who need assistance.

#### **3.2.3 County Council Safeguarding Training**

A training course has been developed and commissioned by Oxfordshire County Council for all drivers and escorts.

This includes:

- Safeguarding
- Human trafficking
- Child sexual exploitation
- Exploitation of vulnerable persons

- Code of Conduct

Training is provided in face to face workshops followed by a written assessment. No badges will be issued or renewed without written certification that the applicant has passed the safeguarding training.

The current training manual is available on request.

- All Oxfordshire Licensing Authorities require all drivers to attend the mandatory Oxfordshire County Council face to face training with a written assessment.
- The programme is available to all districts and drivers need to renew their training every three years. No driver is able to renew his/her school transport badge when it expires (3 year badge) unless the new training has been undertaken.
- All existing drivers in Oxford City, Cherwell and West Oxfordshire District Council will be trained by April 2018 and all new drivers will attend the county council commissioned training from January 2016. South and Vale drivers will attend the county council training from September 2017 and there are satisfactory safeguarding training arrangements for drivers in place in the interim.
- Costs of training is £15 per person. Drivers are charged for non-attendance at pre-booked courses.
- All Investigating Officers attend generalist safeguarding training through OSCB and each Licensing Authority ensures that one officer has attended the specialist designated lead training to advise and support other officers.

### **3.3 Safeguarding Materials and Information**

Safeguarding information is disseminated to drivers and operators in a similar way across all the Oxfordshire Licensing Authorities.

The minimum standards are set out to ensure new applicants understand their safeguarding responsibilities through the successful completion of the knowledge and disability awareness tests. Safeguarding awareness-raising for existing drivers is provided through web-based information and leaflets that an officer talks through with all drivers at interview.

Information and materials are in accordance with national 'Say Something if You See Something' guidance on tackling child sexual exploitation.

- All drivers – Web-site information: All Licensing Authorities must include safeguarding information on their taxi licensing web-pages. Specific references should be made to child sexual exploitation, human trafficking and transportation of vulnerable people. Advice on what to look for, what to do and reporting mechanism must be included.
- All drivers – Application Pack or handbook: Safeguarding information is included in the driver's application pack or handbook. Specific references are made to child sexual exploitation, human trafficking and transportation of vulnerable people. Advice on what to look for, what to do and reporting mechanism is included.
- All drivers – Safeguarding Information Leaflet. All drivers are given a safeguarding information leaflet when being interviewed for a licence. Officers talk through the leaflet so the driver is fully aware of its content. The leaflet includes advice on what to look for, what to do and reporting mechanism must be included.
- A5 Leaflet on the DBS Update Service is issued.

- All drivers - Safeguarding Business Card – all drivers are given a business card sized information sheet with reporting telephone numbers and email addresses, to be kept easily accessible in their vehicle.
- Operators - Application Pack or handbook: Safeguarding information is included in the operator's application pack or handbook. Specific references are made to child sexual exploitation, human trafficking and transportation of vulnerable people. Advice on what to look for, what to do and reporting mechanism must be included.
- Operators – Safeguarding Information Leaflet. All Operators and their staff are given a safeguarding information leaflet when being inspected. Officers talk through the leaflet so the driver is fully aware of its content. The leaflet includes advice on what to look for, what to do and the reporting mechanism is included.

### **3.4 Client Risk Assessment**

- Oxfordshire County Council has in place a programme of Risk Assessment for all children conveyed on Oxfordshire County Council commissioned services. From September 2016 a programme for adults deemed at risk by Adult Social Care has also been in place.
- To initiate a Risk Assessment a Transport Information Form is sent to parent, carer or social worker. This gathers relevant information including a photo of the client to enable the Risk Assessment to be completed.
- Following the completion of the Risk Assessment a passenger passport is then produced. This is attached to the student school bag, with a copy being retained by the Service Provider.

### **3.5 Escorts/drivers**

There is no difference in the processes for vetting, training and supporting escorts/drivers by Oxfordshire County Council.

## **4. Information Sharing**

- The Information Sharing Schedule for the exchange of transporting children/vulnerable adults and taxi licensing information sits under the Information Sharing Protocols of the Oxfordshire Safeguarding Children Board, the Oxfordshire Safeguarding Adults Board and the Oxfordshire Safer Communities Partnership and can be found at Appendix 1.
- The Schedule supports the exchange of information necessary to prevent and detect crime, and support and protect children and vulnerable adults.
- Information exchanged between licensing authorities and Oxfordshire County Council ensures that decisions on complaints, enforcement, suspension and revocation, convictions and public safety concerns are shared in a secure and timely manner on a formal basis, and prevents drivers at risk of losing a licence at one authority from simply obtaining a licence from a neighbouring authority.
- The information is used to risk assess drivers, investigate complaints fairly and proportionately and ensure that those denied licences or having a licence revoked in one area are not able to get a licence in another Oxfordshire authority.

- Informal information sharing takes place between the district councils and the county council to ensure that there is a joined up approach to manage issues regarding vehicle quality, health and safety, driver behaviour and safeguarding, using the county council's risk categories 3 and 4 as a guideline.
- Each Local Police Area must have an arrangement to regularly identify and pass on information of concern, as governed by the common law duty. Data sets to be reviewed include Command and Control, Niche and Custody systems.
- Oxfordshire County Council has no powers to enforce or undertake investigations regarding the licensing of vehicles, operators or drivers. Such matters are passed to the Districts and Police who do have the powers to enforce and investigate.
- Failure to share information results in drivers / vehicles / operators continuing to carry children, vulnerable persons, and all of the public when action could have been taken to remove them from being able to.
- All allegations concerning those who work with children are passed to the Local Authority Designated Officer (LADO) and Adult Safeguarding without delay. Details are included in the Information Sharing Schedule in Appendix 2.

## 5. Policy Alignment and Intended Use Policy

The biggest risk to the safety of the public and the reputation of the taxi and private hire trade is the legal loophole that allows a driver and vehicle to be licensed as hackney carriage by one Licensing Authority and operate as private hire vehicle in another authority's area. The driver does not require a licence from the Licensing Authority where the driver carries out the Private Hire work.

The Local Government Associations Councillors Handbook for Licensing describes the issue very well:

*“... the issue of cross-border hiring is perhaps the most acute problem facing many councils today. In one recent example, a driver applied to a council for a licence only to be refused after the police presented concerns to the licensing committee; the driver then applied to the neighbouring council, which was given the same information by the police but chose to licence the driver. The driver now operates in the first council's area and there is nothing*

To try and address this issue, Licensing Authorities:

- Identify and address key policy differences, thus removing some of the incentives to be licensed elsewhere. To this end, Oxford City Council has removed its age limit criteria, introduced a discount for “green” vehicles, and changed its livery and vehicle requirements.
- Consider ways to reduce the incentives that result in drivers and vehicle owners seeking a licence from an area that they have no intention of working within, but without placing stresses on the resource levels available to councils.
- Refuse an application where there is clearly no intention to work in the Licensing Authority district. This will be easier for renewal licenses where evidence has been gathered by neighbouring authorities, and in effect a simple way to achieve this is for officers to pass on information to their neighbours when they see a vehicle licensed by one council but liveried with the identity of an operator licensed in another area.



- Drivers found to be parking in prominent positions to ply for hire, or are predominantly working in a neighbouring Licensing Authority area will be subject to the enforcement protocol detailed in Appendix 2

## **6. Delegated Enforcement and Joint Operations**

Licensing authorities, where appropriate, will delegate authority to enforce taxi licensing legislation. Relevant training in the licensing conditions must be provided. Licensing Authorities must contribute to an annual schedule of enforcement operations in areas where “out of town” vehicles are operating.

Licensing Authorities undertake regular enforcement operations with Oxfordshire Transport Hub to address issues relating to school transport and the transportation of adults with care and support needs

## **7. Performance Management Framework**

A range of performance measures have been agreed to monitor the effectiveness of the Joint Operating Framework.

This Performance Framework (see Appendix 2) is presented to the Child Exploitation Sub-Group of Oxfordshire Safeguarding Children Board.

If one agency is concerned about how any partner is operating within this framework there is the opportunity to escalate either within that organisation or through Oxfordshire Safeguarding Children Board/Oxfordshire Safeguarding Adults Board escalation routes.

## **8. Health Partners**

No local health organisations commission patient transport for children locally, except South Central Ambulance Service who have robust arrangements in place.

There is no need for local health organisations commission patient transport for adults with care and support needs.

## **9. Neighbouring Authorities**

The Chair of OSCB has written to all Local Safeguarding Children Boards in the south east to request that they adopt similar arrangements.

## Appendix 1: Information Sharing Schedule



### INFORMATION SHARING AGREEMENT: SCHEDULE

This information sharing agreement should be **read and applied** in the context of the information sharing policies adopted by:

- The Oxfordshire Safeguarding Children’s Board
- The Oxfordshire Safeguarding Adults Board
- The Oxfordshire Safer Communities Partnership

The information exchange process is subject to the provisions of the Data Protection Act 1998 and the common law duty of Confidentiality. The information must not be used for any purpose other than that for which it is requested and must not be disclosed to an unauthorised person.

Information will only be shared as relevant and necessary.

The statutory powers to exchange information are set out in the information policies approved by the Safeguarding Boards and the Safer Communities Partnerships. That is:

- *Adult Safeguarding: Sharing Information* (Social Care Institute for Excellence)
- *Oxfordshire Safeguarding Children’s Board Information Sharing Protocol*
- *Oxfordshire Community Safety Information Sharing Protocol*

In particular, information sharing under this agreement will conform to the *Seven Golden Rules of Information Sharing* which are outlined in each of the above policies.

The process for exchanging information for the purpose of Hackney Carriage & Private Hire Safeguarding and Public Protection will be those described in the associated Oxfordshire Safer Communities Partnership Information Sharing Protocol.

No information is to be accessed or shown to individuals who have not agreed and signed the Confidentiality Agreement. Any breach in confidentiality may result in sanctions described with the Confidentiality Declaration outlined at the end of this document. No information provided by partners to those procedures will be released to any third party without the permission of the owning partner.

Before a decision is made about disclosure, a professional must consider the following factors, based on case law decisions:

- Belief in the truth of any allegation
- Legitimacy of the interests of the person needing this information
- Degree of risk if disclosure is not made
- Relevance and importance of the information
- Urgency of the disclosure
- Whether consent for the disclosure has been sought (if appropriate)
- Interests of the vulnerable person or persons
- Impact upon the person to whom the information relates

**Should this agreement at any time be required to be terminated the instigating Designated Officer must notify all relevant parties.**

Name of Designated Officer instigating this procedure	
Post of Designated Officer	
Date instigated	Review date
Schedule title	
Information Sharing Agreement (Hackney Carriage & Private Hire)	
Information sharing process	
<p><i>(Please show how personal information is <u>necessary</u> to enable the appropriate authority to carry out their respective duties in relation to the regulation of contracts to transport vulnerable children and adults, and to the regulation of taxi licensing across Oxfordshire. Information sharing would be used directly to facilitate:</i></p> <ul style="list-style-type: none"> <li>• <i>driver, vehicle and operator vetting processes</i></li> <li>• <i>reviewing the status of current licence holders and new applicants,</i></li> <li>• <i>to prevent crime and disorder, and</i></li> <li>• <i>to uphold our safeguarding obligations)</i></li> <li>• <i>to assist those authorised to make decisions as to the suitability of an applicant or the continuing suitability of a current licence or badge holder where information is required to promote public safety</i></li> </ul> <p>The purpose of the information sharing is informed by the following context:</p> <ul style="list-style-type: none"> <li>• All drivers licensed by the District Councils and those seeking to carry out transport services on behalf of the County Council are required to undertake an Enhanced Disclosure &amp; Barring Services Check.</li> <li>• All drivers licensed by the District Councils are subject to enforcement actions taken following complaints made against them, or matters witnessed by Officers.</li> <li>• Suspending or revoking a County Badge does not stop the driver from still doing all other work given to him/her by the Operator.</li> <li>• A vehicle identified as being unfit for purpose will still be used if the correct authority is not informed.</li> <li>• An operator who may be carrying on illegal activities will still pose a threat to safeguarding and public safety if the other authorities are not informed.</li> </ul>	

- Revoking a licence may result in the person seeking a licence from a neighbouring District.

**Types of information exchanged under this Information Sharing Procedure**

- Details of licences / badges suspended, refused or revoked (drivers, vehicles, operators)
- All substantiated outcomes that relate to the following categories
  - Driver Behaviour
  - Road Traffic Accident
  - Overloaded Vehicle
  - Un-badged Driver
  - Undersized Vehicle
  - Unlicensed Vehicle
  - Vehicle Condition
- Details of criminal investigations undertaken by Police and shared with any of the Authorities and County Council
- Matters witnessed by Officers / complaints received that would lead to concerns in relation to public safety
- Matters witnessed by Officers / complaints received that would lead to concerns in relation to the safeguarding of children, young persons and vulnerable adults
- References by Licensing Authorities to County Council in relation to applicants for County badge

**Transmission, storage and retention period of data exchanged under this information sharing process**

- Any information printed off will be kept in the file in a locked drawer or cabinet, or electronically with access only provided to such persons authorised to see such information.
- All papers that are shared will be encrypted and security marked.
- Information shared in the categories identified will be on the secure 'operational' spreadsheet between District Councils and the Transport Hub and will be shared in a timely manner.
- Information shared verbally will be further supported in written form to ensure accuracy.
- Information shared by those signed up to this agreement will be the responsibility of the delegated officer giving it and receiving it.
- No information will be held for longer than is necessary in accordance with each authority's retention schedules and relevant statutory provisions.

**Licensing managers, their officers, Thames Valley Police and the County Council Transport Hub and LADO are responsible for sharing the information**

I have read and understand the Confidentiality Agreement

**For Office use only**

Organisational Signatories agreed  Schedule meets ISP Requirements

Copy all Confidentiality Agreements received

<b>Schedule Reference:</b>	
<b>Organisation holder:</b>	
<b>Initiating Designated Officer:</b>	
<b>Review date:</b>	

## POWERS AND RESPONSIBILITIES OF PARTNERSHIP AGENCIES:

DISTRICT	POLICE	COUNTY
Licence all hackney carriage & private hire drivers, vehicles, & private hire operators	Investigate criminal activity by all	Issue school transport badge to drivers working through contracted operators
Have power to refuse, enforce conditions, suspend, revoke, prosecute all licences	Have power to arrest, prosecute, recommend licence be suspended / revoked by district	Have power to refuse, suspend / revoke badge, & cancel contract with operator
Have power to inspect vehicles, seize records	Have power to inspect vehicles, seize records	N/A
Transporting all of public	Protecting all of the public	Transporting children and vulnerable persons
Receive complaints about drivers, vehicles & operators	Receive complaints about drivers, vehicles & operators	Receive complaints about drivers & vehicles
Power to caution (council), convict (court), suspend / revoke based on complaints (committee)	Power to caution or convict (via court)	N/A

### Sharing Of Information: When to Ask and When to Give Information

#### County Council:

- All applicants for new badge / renewal of badge: add in to vetting process “check with District” re: enforcement / complaint history.
- Any substantiated outcomes identified in the categories in ‘Types of Information Exchanged’ above about a driver / vehicle / operator.
- Any complaint relating to criminal activity to be shared with Police and District.
- Any additional relevant information arising from the county council DBS checking process.
- Any information arising from request for additional check if there is a conviction to inform the District’s risk management decision making.
- All relevant safeguarding concerns relating to a driver or operator to be shared with the appropriate licensing authority(s).
- All allegations relating to a driver working with children or adults with care and support needs must be sent to the Local Authority Designated Officer or Adult Safeguarding within one working day.
- All relevant safeguarding information to be provided by the Local Authority Designated Officer (LADO) or Adult Safeguarding upon receipt of a request from a licensing officer, in support of a sub-committee report. Appeals are heard within a Magistrate’s Court and are held in the public domain.

#### District:

- Any request from County for their applicants re: enforcement / complaint history
- Any request from Police for their investigations re: enforcement / complaint history

- Any request from Police for driver / vehicle / operator details
- Any substantiated complaint relating to driver / vehicle re: public safety to be shared with County Council
- Any complaint relating to driver / operator re: criminal activity to be shared with Police (if also relates to public safety to be shared with County Council)
- Any driver / operator whose licence has been suspended or revoked to be shared with other Districts and the County Council
- All allegations relating to a driver working with children or adults with care and support needs must be shared with the County Council
- Any driver / operator issued sanctions by Committee to be shared with County Council

### **Police:**

- Any requests from District for PNC Check as part of vetting process / Committee process.
- Any complaints about drivers / vehicles / operators to be passed to Districts and County.
- Any investigation into driver conduct, vehicle standards, operator obstructing Police obtaining information, to be shared with Districts and County.
- Any driver arrested (any reason) / stopped (motoring offences) to be shared with District and County.
- Any bail conditions applied to drivers to be shared with District and County.
- Any cautions / convictions to be shared with District and County.

### **Annex on Information Sharing: Information Sharing with the Local Authority Designated Officer (LADO) and Adult Referrals:**

“Working together” (2015) requires that arrangements should be put in place to ensure that any allegations about those who work with children are passed to the designated officer (LADO) without delay. There are similar requirements for adults with care and support needs in the Care Act 2014.

The local authority has in place arrangements to provide advice and guidance on how to deal with allegations against people who work with children.

The role of the designated officer is to ensure that there are appropriate arrangements in place and to effectively liaise with the police and other agencies to monitor the progress of cases and ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process. The Designated Officer also has a role to challenge organisations whose processes are not fair open and compliant.

A licensing authority should ensure that the designated officer is informed, within one working day, of all allegations that come to their attention. Appropriate referrals should be made directly to the Designated Officer or through the safeguarding lead for transport.

*Contact details as follows for children;*

**For LADO** Telephone: **01865 815956** or [lado@oxfordshire.gov.uk](mailto:lado@oxfordshire.gov.uk)  
**or to discuss general safeguarding concerns** call the Transport Hub on 01865 323500  
 or email Transport Quality Monitoring at [qmcc@oxfordshire.gov.uk](mailto:qmcc@oxfordshire.gov.uk)

All referrals relating to concerns about a child's welfare, where the concern does not relate to someone who is employed or volunteering in a position with children should be referred directly to the MASH in line with agreed existing protocols.

**MASH-Children [mash-children@Oxfordshire.gov.uk](mailto:mash-children@Oxfordshire.gov.uk) or telephone 0345 050 7666**

*Contact details as follows for adults;*

Please call **the Adult Safeguarding Team** on **0345 050 7666** then pick **option 4**

## Information sharing

Information will be shared with district councils in line with legal requirements and locally agreed protocols. The basic principle is that the child's welfare is paramount and information will be shared where there is any potential safeguarding risk to a child or children identified in relation to a driver or an escort. The normal process would mean that if this individual or individuals have their Oxfordshire County Council badge removed, the appropriate district or districts will be informed of the reasons for this and the actions taken. In certain circumstances where there is a sensitive criminal investigation and at the request of Thames Valley Police, where they consider releasing information may interfere with an investigation, Oxfordshire County Council will not disclose until such time as agreement is reached with police.

The Designated Officer role is a statutory role and the process around this also statutory so it is important the Designated officer is informed about any allegation where the concern relates to a potential risk to children. This means that there should be a two way flow of information in line with the agreed protocol but requires referrals to and info to be shared with the designated officer where the referral criteria are met.

These criteria are; any adult employed or volunteering in a position where there is access to children where the adult is alleged to have:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child; or
- Behaved towards a child or children in a way that indicates they may pose a risk of harm to children

The requirements in the statutory guidance require organisations to make referrals under the above criteria within 24 hours so in the norm referrals should come straight to the Designated Officer rather than MASH. It is then for the Designated Officer to involve Police and or social care and other agencies as appropriate.



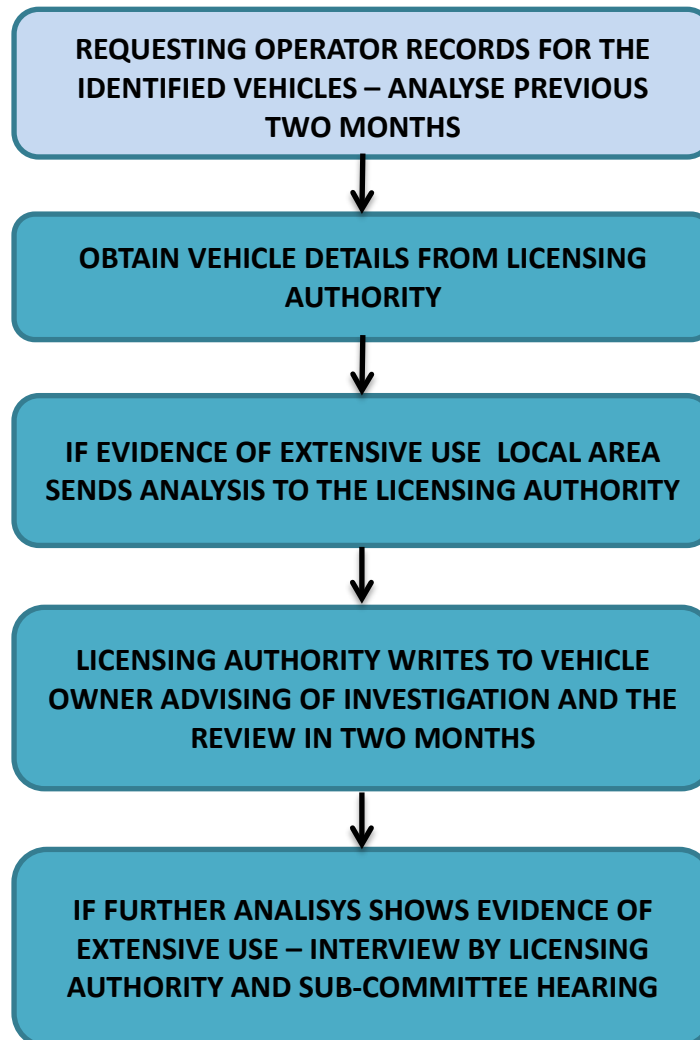
## Appendix 2: Performance Framework

	Measure	Reporting schedule	Notes
1a	Number of licenced taxi drivers at the end of the quarter	Quarterly	Fig at the end of the quarter
1b	Number of drivers licensed during quarter	Quarterly	No. in quarter
1c	Total number of vehicles licensed at end of quarter	Quarterly	Fig at the end of the quarter
1d	Number of vehicles licensed during quarter	Quarterly	No. in quarter
2	Number of complaints received	6-monthly	Calculated
	* substantiated complaints received		No. in quarter
	* unsubstantiated complaints received		No. in quarter
3	No. of referrals made to MASH or LADO for children or adult safeguarding for adults relating to concerns about a driver	Quarterly	No. in quarter
4	No. of drivers who have received the appropriate safeguarding training (either e-training or course attendance) in the last 3 years	6-monthly from September 2015	All current licenced drivers trained in the last 3 years
	Proportion of all licensed drivers who have been trained in the last 3 years		Calculated
5	Number of driver specific enforcement actions taken	Quarterly	Calculated. (Driver specific excludes notifications such as out of date first aid kit; bald tyres etc.)
	* declined/refused		
	* suspensions		
	* revoked		
	* other		
* NFA			
6	Number of drivers revoked or refused on one areas applying elsewhere	Quarterly	
7	Information Sharing	Quarterly	Calculated
	* number of concerns raised by the transport hub/quality monitoring team shared with the licensing authority		
	* number of concerns raised by the licensing authority shared with the transport hub/quality monitoring team		



## Appendix 3: Enforcement protocol for plying for hire and taxis predominantly working out of area

### OXFORDSHIRE JOF ENFORCEMENT PROTOCOL: OUT OF TOWN VEHICLES SUSPECTED OF PREDOMINANTLY WORKING IN ANOTHER DISTRICT



**OXFORDSHIRE JOF ENFORCEMENT PROTOCOL: PLYING FOR HIRE – PROSECUTION LED BY AUTHORITY WHERE OFFENCE TOOK PLACE**

