

Meeting:	Council
Meeting date:	21 November 2024
Report of:	Director – Environment, Transport and Planning
Portfolio of:	Licensing and Regulatory Committee, Chair Cllr Rachel Melly

Decision Report: New Taxi licensing Policy

Subject of Report

1. This report seeks approval by Council of a new Taxi Licensing Policy. It follows a resolution by Members of the Licensing and Regulatory Committee on 8th October 2024, that Council should approve the policy in its amended form as contained in Appendix 1. NB Ten Members of the committee voted for the resolution, one against and there were no abstentions.
2. The reason for the resolution was ‘to ensure the Taxi Licensing Policy complies with Statutory Standards and Best Practice Guidance (or any departures can be locally justified) thereby aiming to make taxi journeys in York even safer, more environmentally friendly and provide greater customer choice particularly for disabled passengers’. The policy, if approved will take effect from 22 November 2024, although there are some aspects (see for example the provisions relating to vehicle standards at paragraph 13 of this report) which will not take effect for existing licence holders until a later date.

Benefits and Challenges

3. On 8 October 2024 the Licensing and Regulatory Committee considered a detailed report providing the benefits and challenges and implications of the proposed new Taxi Licensing Policy. A link to the officer report for that meeting (which is 194 pages and so has

not been appended) can be found in the background papers at the end of this report.

4. The key benefit of the proposed new policy is that it fully aligns the Council's Taxi Licensing Policy to the Statutory Taxi and Private Hire Vehicle Standards (Statutory Standards) made under the Policing and Crime Act 2017. The Department for Transport (DfT) expects the Statutory Standards to be implemented unless there is a compelling local reason not to. For the avoidance of doubt, most of the Statutory Standards, have already been implemented into the existing policy. The consultation undertaken as part of this process was used to help establish whether there were any 'compelling reasons' not to introduce the remaining requirements, particularly where they add additional burdens on to the trade (such as the requirement for additional DBS checks). Members identified no compelling reasons not to follow the Statutory Standards.
5. The Department for Transport (DfT) have also issued 'Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England' (Best Practice Guidance). This covers many of the 'other aspects' of taxi licensing policy that have caused difficulty to licensing authorities in the past or that seem of particular significance such as accessibility, driver licencing (including knowledge tests) and vehicle licensing (including environmental considerations and age limits). Members of the Licensing and Regulatory committee largely recommended that the Best Practice Guidance was followed in accordance with the recommendations in the report For ease of reference, where Members have recommended departing from the Best Practice Guidance, this has been highlighted below.
6. To offset the challenge of compliance with higher standards, for example in respect of replacing vehicles to more environmentally friendly and/or wheelchair accessible vehicles, it will be seen that the proposed new policy provides additional time (3 years) for existing drivers to comply. Members also discussed the challenge of operators increasingly using legislation and technology to lawfully enable their drivers and vehicles licensed by other Local Authorities to work in York.

Policy Basis for Decision

7. The decision taken contributes towards the Council Plan priorities to provide 'a fair, thriving and green economy for all' and 'sustainable accessible transport for all'.

Financial Strategy Implications

8. There are no financial strategy implications.

Recommendation and Reasons

9. That, in accordance with Option 1 below, Council approves the new policy as recommended by Members of the Licensing and Regulatory Committee to ensure the Taxi Licensing Policy complies with Statutory Standards and Best Practice Guidance (or any departures can be locally justified) thereby aiming to make taxi journeys in York even safer, more environmentally friendly and provide greater customer choice particularly for disabled passengers.

Background

10. The Council introduced its first Taxi Licensing Policy in April 2016 with the existing version being approved in October 2019. It was intended that the policy would be fully reviewed and re-published every 5 years, or sooner if there was significant reason to do so. The existing policy was informed in part by a previous version of the 'Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England' issued by the Department for Transport in 2010. However, the introduction of Statutory Standards and other local considerations has meant the Taxi Licensing Policy has been reviewed several times since. A summary of the key changes to the existing policy and other considerations, particularly where the Best Practice Guidance is not recommended to be followed, is set out below:

Statutory Standards including DBS checks

11. As stated above, Licensing and Regulatory Committee recommended changing the existing policy to reflect the remaining Statutory Standards. In summary, this includes the requirement for i) all drivers to subscribe to the disclosure and barring update service, ii) the introduction of a basic DBS check for all hackney vehicle proprietors, iii) for private hire operators to have sight of a basic DBS check for booking and dispatch staff and iv) the introduction of 5 year licences for private hire operators.

Vehicle emission standards and legacy rights

12. The Best Practice Guidance states *‘Licensing authorities should not impose age limits for the licensing of vehicles instead they should consider more targeted requirements to meet their policy objectives on emissions, safety rating and increasing wheelchair accessible provision where this is low’*. (Best Practice Guidance 8.4). To encourage the use of more environmentally friendly vehicles, the new policy provides that following approval by Council, (newly licensed) vehicles will only be licensed if their emission levels are Euro VI or better. Furthermore, despite the Best Practice Guidance, the policy contains an upper age limit for petrol, diesel and hybrid cars i.e. vehicles only being licensed up to ten years old. This is to prevent vehicles continuing to be used after their emission performance has deteriorated. However, the policy proposed no such age limits for wheelchair accessible vehicles (of Euro VI standard or better) or for more environmentally friendly ULEVs such as plug in electric vehicles. This is to encourage drivers to licence wheelchair accessible and/or more environmentally friendly vehicles in future.
13. In relation to legacy rights for *existing* vehicles it is recommended that all licensed vehicles which do not currently meet the standards will keep their licence for a maximum of three years from the introduction of the policy i.e. 22 November 2027. This has been extended further for wheelchair accessible vehicles which do not meet the new emission standards to 22 November 2030.

Tinted windows

14. The new policy recommends following the Best Practice Guidelines in respect of tinted windows i.e. *‘licensing authorities should not require the removal of windows rear of the B-pillar if they have a minimum light transmission of 30% or above’*. This will ensure that a wide range of vehicles with standard tints will be licensable, but will not allow blacked out or significantly opaque rear windows.

Hackney carriage vehicle colour, signage/vehicle livery

15. The Best Practice Guidance states that *‘members of the public can often confuse private hire vehicles with taxis, failing to realise that they are not available for immediate hire and that a private hire*

vehicle driver can only fulfil pre-booked requests. Greater differentiation in signage will help the public to distinguish between the two elements of the trade. To achieve this, licensing authorities should seek to differentiate the profile of private hire vehicles as these can only be legally engaged through a booking with a licensed operator'. It goes on to state 'To assist the differentiation further, licensing authorities which require taxis to be a particular colour should prevent private hire vehicles from being that same colour...' Adding 'Licensing authorities' private hire vehicle signage requirements should be limited to the authority licence plate or disc and a "pre-booked only" door sign... This approach enables passengers to be given the clear and consistent message that you should only get in a vehicle that 'has a taxi sign on the roof' unless you have pre-booked a private hire vehicle and have received information from the operator to identify it.' (Best Practice Guidance 8.12).

16. In the consultation, 51% of respondents strongly agreed or agreed with the proposal that 'taxis should be black to help with public safety', and of the respondents who identified as female, over 61% agreed. Furthermore, two thirds of respondents (66.6%) who identified as having a mental or physical condition lasting more than 12 months agreed or strongly agreed that hackney carriages should be black. The Licensing and Regulatory Committee therefore recommends that all newly licensed Hackney Carriage vehicles should be black (and conversely that private hire vehicles should not be black). NB This provision will only apply as vehicles are replaced naturally or in accordance with the vehicle emission policy. It will not require an immediate change of colour to existing vehicles.
17. Following the consultation responses, the Licensing and Regulatory Committee also recommended that private hire vehicles display the licence number, licensing authority and operator details on the vehicle so passengers can easily identify it at any time as a City of York licensed vehicle. This is over and above the recommendations of the Best Practice Guidance.

Knowledge test

18. Again following the consultation responses, the Licensing and Regulatory Committee recommend that the new Taxi licensing Policy continues to include topographical testing for hackney and

private hire drivers, despite the recommendation in the Best Practice Guidance that it is not necessary for private hire drivers due to the fact that journeys are pre-booked and can be planned using satellite navigation.

Wheelchair accessible vehicles

19. The policy proposes that operators with over 99 vehicles have a wheelchair accessible (WAV) in operation 24 hours a day. If, in exceptional circumstances, where a WAV is unavailable, the operator must notify the council and provide details of the steps being taken to ensure availability'. The Licensing and Regulatory Committee recognised that this is a novel approach to encourage more wheelchair accessible vehicles are available. It is not an example of a way to encourage more accessible vehicles cited in the Best Practice Guidance. However, over 74% of respondents to the consultation strongly agreed or agreed with the proposal.

Subcontractor bookings

20. The De-Regulation Act 2015 allows private hire operators to subcontract bookings to other operators (even if they are licensed elsewhere). In practice, operators typically subcontract bookings to drivers and vehicles of other authorities in which the operator is also licensed. NB. App based technology also enables private hire operators with licences in other authorities to book drivers and vehicles licensed in other authorities without the need for any physical subcontracting. Neither the Statutory Standards nor the Best Practice Guidelines consider information requirements in relation to sub-contracted bookings.
21. Because Taxi Licensing policies differ between Local Authorities based on the local circumstances, this can mean that different standards apply depending on where the vehicle driver and operator are licensed. It has been noted that the new policy proposes departing from Best Practice Guidance in some instances due to local opinion obtained through consultation.
22. The new policy provides that where operators sub-contract bookings, they must provide customers with the details of the replacement driver and enable the customer to change or cancel the booking without charge.

DVLA points

23. For greater consistency with other local authorities, the Licensing and Regulatory Committee recommend that the new policy provides that new applicants are required to have fewer than 7 penalty points on their DVLA driving licence. However, it enables existing licensed drivers who accrue up to 9 points to undertake training and practical testing (at their own cost) which demonstrates that they have the ability to drive at an appropriate level of safety. This is to ensure consistency with the requirements of other Local Authority areas.

Unmet demand surveys

24. The new policy recommends following the Best Practice Guidance on surveys to measure unmet demand of hackney carriages (used to make a determination to restrict the number of hackney carriage licences, and if so by how many). Under the new provisions, these would now be conducted every five years as opposed to three years in the existing policy.

Consultation Analysis

25. The report to the Licensing and Regulatory Committee held on 8 October 2024 highlighted the extensive consultation undertaken, and the specific interest groups contacted directly. There were 573 responses from the website survey and ten detailed email and written responses. These consisted of seven from the taxi trade (including two Associations) and three from other agencies/bodies / members of the public. The York Access Forum was also consulted. As highlighted above, the results of the consultation helped shape many of the recommendations particularly in respect of changes to the existing policy or departing from Best Practice Guidance.

Options Analysis and Evidential Basis

26. Option 1 – That Council approves the proposed new Taxi Licensing Policy as recommended by the Licensing and Regulatory Committee. The analysis and evidential basis being outlined above and in detail in the report to the Licencing and Regulatory committee contained in the background papers.

27. Option 2 – Council does not approve the new policy as recommended the Licensing and Regulatory Committee giving reasons for the decision.

Organisational Impact and Implications

28. The implications arising from the report are as follows:
29. **Financial** – Chief Finance Officer’s comment. There are no direct financial implications for the council. However, Taxi licensing fees are required to recover costs. Fees are reviewed annually to ensure that they reflect actual costs to the Council.
30. **Human Resources (HR)** – Head of HR’s comment. There are no HR implications.
31. **Legal** – Head of Legal comment. An up to date policy which clearly states the way in which the Council will undertake its statutory duties assists with robust and consistent decision making thus ensuring fairness and transparency for both the trade and public.

Licensing authorities must give due regard to the Statutory Standards when setting their taxi and private hire vehicle licensing policies and procedures. They should also take into account the non-statutory best practice guidance but may depart from it with adequate justification.

Decisions on individual licensing matters determined under the policy are subject to appeal to the magistrates court applying the relevant law. The Council’s decision on the adoption of its taxi licensing policy is subject to judicial review.

32. **Procurement.** There are no procurement implications.
33. **Health and Wellbeing** - The emissions standards are aimed at improving air quality. Taxi drivers are amongst the groups most likely to be affected by poor air quality arising from vehicle emissions.
34. **Environment and Climate action** - Director of Transport, Environment and Planning, and Head of Carbon Reduction’s comment. The changes to vehicle standards in particular are aimed at having a positive impact on the environment and climate action.
35. **Affordability** - Director of Customer and Communities comment. The policy sets out details of the way in which hackney carriage fares are set and reviewed by the Council. The Council will pay particular regard to the needs of the travelling public, with

reference both to what it is reasonable to expect people to pay but also to the need to give taxi drivers the ability to earn a sufficient income and so incentivise them to provide a service when it is needed.

36. **Equalities and Human Rights** - It is recognised that licensed taxis and private hire vehicles are a particularly important method of transport for disabled people and other vulnerable passengers, including school children because of the door-to-door service they provide. A detailed equalities impact assessment accompanied the Licensing and Regulatory Committee report. The policy includes a robust approach to safeguarding including ongoing checks on drivers and compulsory training.
37. **Data Protection and Privacy** – Information Governance comment. The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.
38. **Communications** - The policy will be available on the City of York Council website in an accessible format.
39. **Economy** - Head of City Development. The implications of the policy on the taxi trade and those who rely upon it have been highlighted throughout the report.
40. **Other** – There are no other implications.

Risks and Mitigations

41. Operating with a taxi policy which fails to follow the Statutory Standards and/or the Best Practice Guidance without local justification means that the impact of adverse local publicity and/or a successful challenge in a local court is 'moderate' and the likelihood is 'possible'. This gives a risk score of '14', and is a yellow risk on the Council's Risk Management Matrix. Having an updated/approved policy means that the likelihood reduces to 'remote' which gives a risk score of '6' and is a green risk.

Wards Impacted

42. All wards will be impacted by the policy.

Contact details

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Background papers

Agenda report pack for the Licensing and Regulatory Committee – Tuesday 8th October 2024

<https://democracy.york.gov.uk/documents/g14535/Public%20reports%20pack%20Tuesday%2008-Oct-2024%2016.30%20Licensing%20and%20Regulatory%20Committee.pdf?T=10>

Department for Transport - Statutory taxi and private hire vehicle standards - Updated 25 November 2022

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

Department for Transport - Taxi and private hire vehicle licensing best practice guidance for licensing authorities in England - Updated 17 November 2023

<https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance/taxi-and-private-hire-vehicle-licensing-best-practice-guidance-for-licensing-authorities-in-england>

Annexes

Annex 1 – New Taxi Licensing Policy