

Executive

26 January 2017

Report of the Director of Economy and Place

Portfolio of the Executive Member for Transport and Planning

Taxi Licensing Policy

Summary

1. In accordance with the requirements of the Council's Constitution, this report seeks the Executive's formal adoption of the new and consolidated Taxi Licensing Policy. It advises on the consultation undertaken, the amendments to the draft policy following the consultation and proposed amendments to the policy following earlier approval by Gambling, Licensing and Regulatory Committee (GLR Committee).

Recommendations

2. Members are asked to approve option 1 of this report and adopt a Taxi Licensing Policy.

Prior to their approval of the Taxi Licensing Policy GLR Committee took into consideration the responses received to the public consultation and the representations made at committee.

Reason: This will allow the Council to have all policies and conditions contained in one formal Taxi Licensing Policy.

Background

3. Unlike other licensing regimes, there is no statutory requirement for local authorities to have hackney carriage and private hire policies. Local authorities are however entitled to adopt such policies as they are an integral part of the decision-making process. A policy guides, but does not bind, a local authority.
4. The Council has approved a number of policies and conditions, and these have not been contained in one formal document. Individual

decisions on applications for licences (including the imposition of appropriate conditions) are non-Executive functions that are undertaken by the GLR Committee. Standard conditions have been agreed over many years by the GLR Committee as ancillary to the regulatory function. Policies and conditions previously agreed have only been available within committee reports and minutes, with relevant policies and all conditions being available in guidance notes to new applicants and the existing licensed trade. The council now seeks approval of an over-arching Taxi Licensing Policy in part to consolidate, and in part to update practices in line with legislative changes. As it is not a formal statutory requirement that a Taxi Policy is adopted by a Council, unlike the requirements of the Licensing Act 2003 'Statement of Licensing Policy', (which is approved by Full Council), formal adoption of the Council's new overarching Taxi Licensing Policy requires a decision of the Executive to accord with the Constitution.

5. Since the introduction of the Deregulation Act 2015 and through the joint work undertaken with the West Yorkshire and York Combined Authority Group, some new policies and procedures were identified and proposed. As part of the work of the Combined Authority Group officers are working on standardise policies and conditions on a number of issues such as fit and proper person requirements, cross border enforcement authorisation and child sexual exploitation (CSE) training for drivers (at this time York is the only authority who has not fully implement CSE training for drivers).
6. A report was taken to GLR Committee on 8 February 2016 asking for approval to formally consult on a proposed Taxi Licensing Policy. This proposed policy consolidated all of the Council's existing policy documents along with proposed new policies into a single Taxi Licensing Policy. GLR Committee Members authorised officers to formally consult on the proposed policy.
7. The consultation asked respondents for their views/comments on the proposed policy. Where it was felt appropriate amendments were made to the Taxi Licensing Policy in relation to the comments received as part of the public consultations. Further information regarding the consultation responses can be found within Annex 1.
8. A further report was taken to the GLR Committee on 25 April 2016 asking for Members to approve the Council's Taxi Licensing Policy. Members took into consideration the comments received from the public consultation and the representations made at the committee.

Members proposed two amendments to be made to the Policy, and approved the Policy.

Deregulation Act 2015

9. The Deregulation Act 2015 received Royal Assent on the 26 March 2015, Sections 10 and 11 took effect from the 1 October 2015, they amended the provisions in the Local Government (Miscellaneous Provisions) Act 1976 in two ways:

Duration of Licences

- Introduction for Private Hire and Hackney Carriage drivers licences to be granted for a 3 year period. The option to grant for a lesser period will only be available to the council where it is appropriate to the particular circumstances of the case. The Council has currently granted licences for a maximum of one year.
- Introduction for Private Hire Operators Licences to be granted for a 5 year period. The option will only be available to the council to grant a licence for a lesser period, where it is appropriate in the particular circumstances of the case. The Council has granted operators licences on an annual basis.

Private Hire Vehicle Sub Contracting

- The ability of a private hire operator to sub-contract bookings to another legitimate private hire operator who may be outside the boundary of the City of York Council authority area and therefore licensed by another authority. This is causing concern amongst the trade and local authorities in relation to increased and more complex enforcement.
10. The implications of allowing cross-border sub-contracting (which was previously unlawful) are potentially wide ranging. They mean that a customer could contact an operator within the authority area and order a private hire vehicle, the operator who takes the booking may then pass the work to another company who may be licensed by another authority area, without first obtaining the consent of the customer. This means that vehicles used to fulfil contracts may be subject to different standards than vehicles licensed within our area. It may also lead to a significant move within the licensed trade to

seek out the cheapest area to licence their vehicle, then simply refer all bookings to their operator based in the cheaper area.

11. Sub-contracting is lawful by virtue of the Deregulation Act and cannot be restricted by the Council. The Council is however focussing efforts to promote cross-border enforcement, in light of the potential implications as a consequence of this change in legislation.
12. Members are also advised that in respect of private hire vehicles, the vehicle, driver and operator must be licensed by the same Authority. However, it is lawful for a private hire vehicle to work in an Authority area, even if they are licensed by another Authority, provided that the vehicle is booked through the licensed operator for that vehicle, and not directly with the driver. This was the legal position even before the Deregulation Act came into force.

Consultation

13. An eight week consultation was carried out on the Taxi Licensing Policy, from 12 February to 8 April 2016.
14. The Council consulted the holders of hackney carriage vehicle and driver licences, and private hire vehicle, driver and operator licences. This was done by direct mailing and use of the Council's website.
15. The Council also consulted:
 - Hackney Carriage and Private Hire Associations
 - North Yorkshire Police
 - City of York Council Network Management
 - City of York Council Children Services
 - City of York Council Adult Services
 - City of York Council Public Health
 - York District Hospital
 - Make it York
 - North Yorkshire County Council School Transport
 - Ward Councillors
 - Parish Councils
 - Groups that represent disabled people
 - Groups that represent elder people
 - CAB

This was done by email and use of the Council's website.

16. In total 17 responses were received to the consultation, 13 from the licence trade (including two Associations) and four from other agencies/bodies. These responses can be found at Annex 1.
17. A further two responses were received after the consultation period ended. These can be found at Annex 2. Due to the late submission they were not included within Annex 1 when it was placed before the GLR Committee, and Members determined whether to take these late responses into consideration. All matters within the report were taken into consideration.
18. Seven representatives of the licence trade addressed the GLR Committee on the 25 April 2016.
19. Since the GLR Committee approved the Taxi Licensing Policy further representations have been received from the licence trade, in relation to two points:
 - a) Representations have been received relating to the wording of a licence condition which is attached to private hire vehicle and operator licences, from the following members of the hackney carriage and private hire trade, additional information can be found in the Analysis at paragraphs 23 - 31:
 - Independent Taxi Association York (over 60 members)
 - York Station Taxis Ltd (141 signatures with request)
 - Getaway Cars
 - Fleetways (33 signatures with request)
 - Executive Cars York
 - York Private Hire Association
 - Streamline (106 signatures with request)
 - Six Five Nine Cars Ltd
 - York and Ebor Cars
 - Telecars Taxis (York) Ltd
 - b) Representations have been received in relation to the policy requirement relating to licensed vehicle insurance from 13 members of the hackney carriage trade and the Independent Taxi Association York, additional information can be found in the Analysis at paragraphs 38 - 46.

Options

20. Option 1, take into consideration the representation/comments from the licensed trade and approve the Taxi Licensing Policy in the amended form appended to this Report. Prior to their approval of the Taxi Licensing Policy GLR Committee took into consideration the responses received to the public consultation and the representations made at committee.
21. Option 2, take into consideration the representation/comments from the licensed trade and make further amendments to the Taxi Licensing Policy prior to approval.

Analysis

Duration of Driver Licenses

22. Of the responses to the policy from the licence trade three related to the issuing of three year driver licences from 1 April 2016. It is a requirement of Section 10 of the Deregulation Act 2015, which took effect from the 1 October 2015, that driver licences are issued for a period of three years, or for such a lesser period as the district council think appropriate in the circumstances of the case. Following the consultation an amendment was made to the policy in relation to the refund of fees to state:

‘No refund will be given in respect of an unused portion of a licence, unless the council believes there are appropriate circumstances, this will be determined on a case by case basis.’

Vehicle Licence Condition

23. A further three responses to the policy from the licence trade objected to the wording of condition 1(b) of the Private Hire Vehicle Licence Conditions, within Appendix 1 of the Policy, which states:
 1. The licensed vehicle shall display the following signs:
 - a)
 - b) A sign on the rear passenger doors including the name and telephone number **and/or website address** of the firm and the words “PRIVATE HIRE VEHICLE – PRE BOOKED ONLY” in suitable lettering at least 50mm (2”) but not more

that 100mm (4”) high. The approval of the Council should be sought before the display of the sign. The sign must not include the words “FOR HIRE”, “TAXI” OR “HACKNEY CARRIAGE”.

24. The representation from the licence trade detailed at paragraph 19(a) also relate to the wording of this condition.
25. By way of background, the standard condition previously imposed on the licences by the Licensing Authority required a telephone number to be shown on the vehicle door sign. Following consideration of a request from a private hire operator applicant in September 2015, that asked for the requirement for a telephone number on the door sign to be removed, the wording of the standard condition was amended to include ‘and/or website address’. At that time the amendment to the standard condition was approved by the Director of Communities and Neighbourhoods, in consultation with the Chair of the GLR Committee. Licences subsequently issued by the Licensing Authority then included the amended condition.
26. The licence trade are aggrieved that they were not formally consulted at that time by the Council prior to agreeing to the above change. They believe this was a major variation. However, in any event during and after the consultation on the proposed Policy, (which included the amended condition 1(b)), the licence trade have had the opportunity to make representations to the GLR Committee and requested that the condition should be reverted back to the original, requiring a telephone number.
27. The GLR Committee had regard to the representations made by the Taxi trade and resolved that the condition need not require only a telephone number to be shown on the door sign. Your officers do not consider a condition requiring only a telephone number to be necessary and the proposed standard condition 1(b) is included in Appendix 1 of the proposed Policy annexed to this report.
28. The further representation received from the licensed trade, as detailed at paragraph 19(a), believe that the condition should be reverted back for the following reasons:
 - This will ensure that only bone-fide York licensed Taxi and Private Hire firms can operate in York.

- Those firms will have a person in an office who can deal with bookings, queries and complaints.
- Only York licensed drivers and vehicles can be used.
- They can accept pre-booked work.
- This will banish 'app-only' companies operating in York.
- Customers and the general public can immediately contact the company by telephone to register any complaints/concerns.
- Customers can contact the operators office in relation to lost property and be assured that the property is safe.
- Concerns for elderly or vulnerable people who may not have access or the ability to use a computer or have an email address.
- By not having a telephone number there is no ability to speak to someone straight away.

29. Officers have contacted other licensing authorities within North and West Yorkshire to compare their requirements for private hire vehicle door signage, and they are as follows:

Council	Requirement
Hambleton	There is no requirement for a telephone number and/or website to be displayed.
Harrogate	As above.
Ryedale	As above.
Leeds	As above.
Bradford	Private hire operators can design their own door signage and it is optional if they include a telephone number and/or website address.
Kirklees	As above.
Scarborough	There is a requirement for a telephone number of the operator.
Selby	There are no requirements for door signage.

Wakefield	As above.
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Operator's Licence Condition

30. The three responses also objected to condition 21 in the Operator's Licence, within Appendix 10 of the Policy. Having revisited Condition 21 since the GLR Committee meeting, your Officers do not consider it necessary for this condition to be imposed on the Operator's Licence as it is more appropriately covered in the Private Hire Vehicle Conditions, and so it is recommended that condition 21 be deleted from the standard Operators Licence Conditions. This amendment has been made at Appendix 10 to the proposed Policy annexed to this Report.
31. In addition, it is recommended that Condition 22 be deleted, and instead, the requirement that any artwork on a vehicle be first approved by the Council be included within Condition 2 to the Private Hire Vehicle Licence. These amendments have been made at Appendix 1 and Appendix 10 to the proposed Policy annexed to this Report.

Environmental Considerations

32. Section 23 of the policy relates to 'Environmental Considerations', and the introduction of European Standards for licensed vehicles. There were 11 responses from the licence trade. The main concern regarding the introduction of European Standards relate to the increase cost of replacing a licensed vehicle. This section was included within the policy at the request of the Council's Public Protection Air Quality Officers to assist the Council to meet its' health-based air quality objectives.
33. The policy does not propose to make all diesel vehicles Euro 6 after the 1 June 2017. It proposes that at the point of change of vehicle, the vehicle to be licensed will meet either Euro 5 petrol or Euro 6 diesel, from the 1 June 2017 for taxis and 1 November 2017 private hire vehicles.
34. A guide to the age of vehicles in relation to the Euro Standards:
 - New private hire vehicles from 1 November 2016

- Euro 5 petrol – can purchase any petrol vehicle up to 7 years and 2 months old
- Euro 6 diesel – can purchase any diesel vehicle up to 2 years and 2 months old
- Can purchase any ultra low emission vehicle (CO₂ 75g/km)
- Replacement vehicles after 1 June 2017
 - Euro 5 petrol – can purchase any petrol vehicle less than 7 years and 9 months old
 - Euro 6 diesel – can purchase any diesel vehicle less than 2 years and 9 months old
 - Can purchase any ultra low emission vehicle (CO₂ 75g/km)

(Note: Some vehicles slightly older than these guideline dates may meet the correct emission standards depending on when manufacturers released the new models for sale. For example some vehicles sold earlier in 2013 may have achieved Euro 6)

35. Following the consultation an amendment was made to the policy in relation to Euro Standards and wheelchair accessible vehicles, paragraph 23.5 of the policy now also includes:

- Diesel wheelchair accessible vehicles – Euro V diesel vehicles class*

*this only applies to replacement vehicles and if the following criteria is met:

- The vehicle licence was granted prior to the 1 May 2016 to a wheelchair accessible vehicle;
- The replacement vehicle is wheelchair accessible;
- The vehicle licence is renewed annually;
- Ownership of the vehicle remains in the name of the vehicle licence proprietor whose name was on the licence on the 1 May 2016;

If the above criteria are met a vehicle licence proprietor may replace the licensed wheelchair accessible vehicle as many times as necessary until this policy is amended.

Non Licence Trade Responses

36. A total of four responses to the policy were received from other agencies/bodies:

- (a) City of York Council, Health Improvement Manager – support the health and safety and air quality elements of the policy. The wording of paragraph 2.3 has been strengthened to highlight a range of impairments. An additional section, 38 ‘Optional Training’ has been included within the Policy highlighting that the Council offers training in equalities and dementia friends.
- (b) York Blind and Partially Sighted Society – would like to see more robust requirements with regards to eye sight tests. The Council policy is in line with the Department for Transport Best Practice Guidance, that drivers must complete a medical to DVLA Group 2 standard. If required the Councils can also request that a driver has additional Group 2 standard medicals or further medical assessments.
- (c) York Green Party – would like to of seen the introduction of different air quality matters.
- (d) York Teaching Hospitals NHS Foundation Trust – encourage and support the work of the Council is developing as part of its commitment to sustainability and clear air through its taxi policy.

GLR Committee Consideration

- 37. GLR Committee Members considered the report and matters raised by licence trade. They agreed that two amendments were required to the policy relating to side plates lettering size and the inclusion of drivers’ wellbeing. They resolved that, subject to the agreed amendments detailed, the policy be adopted, to allow the Council to introduce a Taxi Licensing Policy. These amendments are included in the proposed Policy annexed to this Report.

Licensed Vehicle Insurance

- 38. The representation from the licence trade detailed at 19(b) above raises a new issue that was not raised at the GLR Committee, concerning the proposed new policy requirement for insurance for licensed vehicles to be in the name of the owner of the vehicle as well as the driver.

Background to Reason for the Insurance Requirement

Hackney Carriage Licence Plates

39. Legislation entitles the vehicle proprietor(s) to have their name entered onto the vehicle licence (the licence is issued in respect of the vehicle to its owner, as opposed to the licensed driver of the vehicle). As the Council restricts the number of hackney carriage vehicle licences issued, such licenses (sometimes referred to as plates) have a premium value, the hackney carriage “plate” is a valuable asset, which is known, in some cases to have been worth over £50k. The “plate” holder will not necessarily be the driver of the vehicle, but will hold the “plate” as an asset. As a consequence of the limitation on the number of hackney carriage plates, it is common practice in York that where a licensed driver wants the benefit of a hackney carriage “plate”, they will sell a vehicle to the “plate” holder for a nominal payment, sometimes as little as £10.00, and the “plate” holder will change his licensed vehicle in accordance with the Hackney Carriage Vehicle Licence to his newly purchased vehicle. It is also possible for a vehicle to be jointly owned by a number of proprietors.
40. For these reasons, it is important that the Licensing Authority has sufficient documentary evidence that the “plate” holder is the proprietor of the vehicle being licensed. Where a vehicle has been purchased by a “plate” holder through a private sale, documentation can be limited. In the past, the evidence of ownership required by the Licensing Authority consisted of a “bill of sale”. In private vehicle sales the “bill of sale” can be as basic as a handwritten note that states that the vehicle has been sold to the vehicle licence holder.
41. Relying on this limited evidence has given rise to situations whereby the ownership of the vehicle is disputed, and the Licensing Authority has become involved in these protracted disputes as the parties have sought determination from Members as to the identity of the proprietor, and the matter has also been referred to the County Court to seek a declaration as to ownership. Following consideration of such a dispute in 2015, GLR Committee resolved that Officers look at whether additional documentation could be required in the licensing process to address the issue of evidence of ownership of the vehicle.

42. Over the last 7 years the Council has been asked to resolve claims relating to the rightful owner of licensed hackney carriage vehicles on five occasions.
43. When disputes in ownership have arisen the driver produces documents such as the vehicles registration (V5) and insurance stating they are both in their name. Within the new policy it was therefore proposed that it be a requirement that:
- The vehicle registration document (V5) must be held in the name of the principal/lead vehicle licence proprietor.
 - All vehicles must have a current valid policy of insurance at all times appropriate to the vehicle. This policy must be held by the vehicle licence proprietor and must be in place before a licence can be granted. For vehicles where there are multiple proprietors the insurance must be in the name of the principal/lead proprietor.
44. The representation received from the trade relate to the requirement that the insurance for the vehicle must be held by the vehicle licence proprietor. A number of vehicle licence proprietors never drive the licensed vehicle, the vehicle is rented out to licensed drivers and therefore the insurance is usually in the driver's name. This new requirement would put additional costs on both the vehicle licence proprietor and driver, insurance premiums are very high for vehicle licence proprietors as they have not previously held licensed vehicle insurance and therefore have not accumulated 'no claims' discounts. In some cases insurance premiums are increasing by over £2k per year.
45. To address this issue it is now proposed that Section 13 of the policy is changed to state:

13. Insurance

- 13.1 All vehicles must have a current valid policy of insurance at all times appropriate to the vehicle.
- 13.2 It is an offence to drive a vehicle without the appropriate insurance in place. Requests to produce insurance may be made during the term of the licence. These requests must be

complied with in accordance with the time scales stipulated in the request.

46. It will also be a requirement of the policy, within Section 18, that where the vehicle licence proprietor has purchased the vehicle by way of private sale, both the seller and purchaser provide to the Council a formal Statutory Declaration clearly identifying ownership of the vehicle. Such a declaration is given under oath in the presence of a solicitor, and is considered to provide sufficient evidence as to ownership for the purposes of the Licensing Authority.

Staffing Matters and Urgency Committee

47. On the 21 December 2016 Staffing Matters and Urgency Committee, determined an application for the renewal of a private hire operator's licence. It is not usual practice for an application of this nature to be determined by Members as this function has been delegated to Officers. However due to the public interest in this particular operator it was deemed to be more appropriate to determine the application at a public committee meeting.
48. Members of this Committee asked Officers to amend paragraphs 18.2, 33.2 and 43.2 of the Taxi Licensing Policy, which state:

“Applications will be processed within 10 working days, applications will not, however, be determined until the Council has received all relevant documentation.”

To also include a reference to application that may need to be determined by Committee, these paragraphs have been amended to state:

“Applications will normally be processed within 10 working days, unless it has to be determined by Committee in which case it will be determined within 30 working days. Applications will not, however, be determined until the Council has received all relevant documentation.”

Proposed Taxi Licensing Policy

49. The proposed policy is attached at Annex 3.

Council Plan

50. The provision of hackney carriage and private hire licensing supports the council plan of a prosperous city for all, where local businesses can thrive.

Implications

51. The direct implication arising from this report are:
- **Financial** – There are no direct financial implications for the Council, however as a result of the adoption of Euro Standards for vehicles, this could result in an increased cost for the licence trade.
 - **Human Resources (HR)** – There are no HR implications.
 - **Equalities** – An equalities impact assessment has been undertaken in relation to the Taxi Licensing Policy
 - **Legal** - There is no statutory requirement to adopt a Taxi Policy however, it is best practice to do so. Whilst an adopted policy will be a consideration in determining applications it must not be applied in a prescriptive way which could fetter the discretion of the Licensing Authority in respect of individual applications.
 - **Crime and Disorder** – There are no crime and disorder implications. The legislation and the policy address issues relating to public safety.
 - **Information Technology (IT)** – There are no IT implications.
 - **Property** – There are no property implications.
 - **Other** – There are no other implications.

Risk Management

52. There are no known risks associated with this report.

Contact Details

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**Report
Approved**

Date 04/01/17

Specialist Implications Officer(s)

Alison Hartley
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Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Agenda and minutes for Gambling, Licensing and Regulatory
Committee on the 25 April 2016

<http://democracy.york.gov.uk/ieListDocuments.aspx?CId=606&MId=8636&Ver=4>

Annexes

Annex 1 – Consultation Responses

Annex 2 – Late Responses

Annex 3 – Taxi Licensing Policy