

Executive

26 September 2019

Report of the Corporate Director of Economy and Place
Portfolio of the Executive Member for Transport

Update on Taxi Licensing Policy

Summary

1. In accordance with the requirements of the Councils Constitution this reports seeks the Executive's formal adoption of amendments to the Taxi Licensing Policy in relation to:
 - Driver training; and
 - Determining the suitability of applicants and licensees as drivers in taxi and private hire licensing
2. It advises of the joint work of the West Yorkshire and City of York Licensing Authorities, consultation undertaken and the amendments to the policy following the consultation.

Recommendation

3. Members are asked to approve option 1 of the report and adopt the amendments to the Taxi Licensing Policy.

Reason: This will allow the Council to align policies in relation to training and suitability with the West Yorkshire Authorities. Aligning policies will help ensure that people across the six authority areas are transported safely and protected from harm to standards applied consistently across the area.

Background

4. Unlike other licensing regimes, there is not 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. The Council adopted the current Policy on the 26 January 2017.

5. Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847, the Council is responsible for the licensing of hackney carriage and private hire drivers. The primary concern when licensing drivers is public safety.
6. It is a requirement of Sections 51 and 59 of the 1976 Act that Licensing Authorities must ensure that applicants for driver licences and licensed driver are and remain fit and proper to hold a licence.
7. Taxis and private hire vehicles are used by almost everyone but are used regularly by vulnerable groups:
 - children
 - the elderly
 - disable people
 - the intoxicated
8. Council Leaders of the five West Yorkshire Authorities and the City of York asked Licensing Committee Chairs, in conjunction with Licensing Managers, to harmonise our policies in relation to taxi licensing matters. It was agreed by Committee Chairs that two of the areas to be addressed were driver training and suitability of applicants and licensed drivers especially in relation in relation to convictions. Other aspects may follow; the Department for Transport are considering implementing minimum standards across England and Wales.

Training

9. In order to demonstrate that they are 'fit and proper' to hold a licence, prospective drivers have to undertake a raft of checks including criminal record checks (see below), the right to work in the UK and a medical examination. They must also undertake (and pass) the following training:-
 - driving assessment (by a provider approved by the Council)
 - knowledge/locality test
 - disability/equality
 - sexual exploitation awareness/safeguarding

10. In relation to the latter three elements, these are currently ‘tested’ by one paper consisting of 30 questions following a full day training session. An applicant needs to score 26/30 (87%) to pass. Additionally, licensed drivers and driver applicants must have a reasonable level of conversational and written English, along with an understanding of basic maths (but the English/Maths elements are not tested).
11. Existing drivers are required to demonstrate they have had ‘up to date training’ on disability/equality and sexual exploitation/safeguarding awareness (and that they therefore continue to be a ‘fit and proper person’) prior to having their licence renewed. To this end, the Council provides a half day training course. This includes a quiz at the end to check understanding but it is not a requirement to pass.

N.B The Council received two petitions against implementing the training for existing drivers prior to implementation.

12. Following their meeting on 15 July 2019, Members of the Licensing and Regulatory Committee recommended that the Executive adopt the training policy. It is also recommended that the implementation date will be set by officers once a training provider is in place. New driver applicants will be expected to undertake and pass the training prior to being licensed and existing drivers will be expected to attend refresher training at least once every three years. The training will be provided by a trainer approved and appointed by the West Yorkshire and City of York licensing authorities, each authority will appoint a trainer(s). The policy can found in full at Annex 1. In summary:

Advanced Taxi Driving Test	Practical Assessment (any providers recognised by each authority will be acceptable)
An English Test	Practical Assessment, ESOL Entry 3 in Speaking, Reading and Listening
Local Knowledge Test	Requirement to achieve a pass rate specified by the authority that you are applying to. (will have questions specific to each area and cannot be transferred)
Regulatory Framework of the Hackney Carriage and Private Hire Industry and Test	Requirement to achieve a 80% pass rate (these questions will cover the same topics for all authorities)

Professional Standards Training and Test	Requirement to achieve a 80% pass rate (these questions will cover the same topics for all authorities)
Safeguarding Training and Test	Requirement to achieve a 80% pass rate (these questions will cover the same topics for all authorities)
Equalities/Disability Training and Test	Requirement to achieve a 80% pass rate (these questions will cover the same topics for all authorities)
Practical Wheelchair Course (for all Drivers of Wheelchair Accessible Vehicles)	Practical Assessment

Suitability of drivers/previous convictions

13. Our current policy states the following in relation to convictions:-

'Under Section 61(1) of the 1976 Act the Council has the power to suspend or revoke the licence of a hackney carriage or private hire driver:

- *who since the grant of the licence has been convicted of an offence:*
 - *involving dishonesty, indecency or violence; or*
 - *under the provisions of the Act of 1847 or Part II of the 1976 Act; or*
- *for any other reasonable cause.*

Licensed drivers shall inform the Council within three days of any conviction being recorded against him/her or any Company of which he/she is a Secretary or Director. On receipt of this information the Council may have reasonable cause to issue a written warning, require the driver to attend a driving assessment, suspend the licence for a specified period or revoke the licence.

Licensed hackney carriage and private hire drivers are regarded as a 'notifiable occupation'. Therefore, if a licensed driver comes to the notice of the police, the police may notify the appropriate local authority of a conviction and any other information that indicates that a person poses a risk to public safety. Most notifications are made once an individual is

convicted, however, if there is a sufficient risk the police may notify the authority immediately. On receipt of this information the Licensing Manager may have reasonable cause to suspend or revoke the licence.

Failure to declare convictions received during the lifetime of the licence could lead to the renewal applications being refused.'

14. The Licensing and Regulatory Committee recommended that the Executive adopt the taxi licensing policy in relation to suitability to strengthened and be more specific in relation to previous convictions (although all individual circumstances will have to be considered on their merits). It is also a recommendation that the policy come into effect from the 1 October 2019. The full policy can be found at Annex 2. In summary:

Offence	Period Elapsed
Crimes resulting in death of another person or was intended to cause the death or serious injury to another person.	No period is thought sufficient to have elapsed and the application will be refused.
Exploitation – any crimes involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victims were adults or children including, for example: slavery, child sexual exploitation, grooming, psychological, emotional, or financial abuse.	No period is thought sufficient to have elapsed and the application will be refused.
Offences involving violence (including arson, riot, terrorism offences, harassment, common assault & criminal damage) or connected with any offence of violence.	10 years
Possession of a weapon or any other weapon related offence.	7 years

Sex and indecency offences – any offence involving or connected with illegal sexual activity or any form of indecency.	No period is thought sufficient to have elapsed and the application will be refused.
Dishonesty – any offence of dishonesty, or any offence where dishonesty is an element of the offence.	7 years
Drugs supply – any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply.	10 years
Drugs use – any conviction for possession of drugs, or related to possession of drugs.	5 years
Discrimination – any conviction involving or connected with discrimination in any form.	7 years
Drink driving/driving under the influence of drugs.	7 years
Driving whilst using a hand-held telephone or other device.	5 years
Minor traffic or vehicle related offences – offences which do not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand held telephone or other device and has not resulted in injury to any person or damage to any property (including vehicles) resulting in 7 or more points on a DVLA licence.	3 years

Major traffic or vehicle related offences – offences not covered under minor traffic or vehicle related offences and also any offence which resulted in injury to a person or damage to any property (including vehicles), driving without insurance or any offence relating to motor insurance.	7 years
Hackney carriage and private hire offences.	7 years
Vehicle use offences, for example being carried in vehicle without the owners consent.	7 years.

Consultation

15. In relation to the proposed changes to the ‘training’ and ‘suitability of applicants and licensed drivers’ changes, five of the six authorities (Calderdale, Kirklees, Leeds, Wakefield and York) consulted on the proposed training policy between November 2018 to January 2019; with York’s consultation taking place from 6 November 2018 to 18 January 2019. Bradford carried out an engagement exercise in relation to the suitability policy.
16. York’s consultation was carried out by direct mailing via email and letter, with the proposed policy being available on the Councils website; hard copies were available at the Customer Centre at West Offices and the Reception of the Eco Depot.
17. Hackney carriage and private hire driver, vehicle and operator licence holders were consulted. With hard copies of the consultation provided to the Hackney Carriage and Private Hire Associations and the large private hire operators. The results of the consultation can be found at Annexes 3 and 4.

Options

18. Option 1 – take into consideration the responses to the consultation and the recommendations of the Licensing and Regulatory Committee and adopt the policy changes in relation to driver training (Annex 1) and

determining the suitability of applicants and licensees as drivers in taxi and private hire licensing (Annex 2). The policies will come into effect as stated in paragraphs 12 and 14.

19. Option 2 – take into consideration the responses to the consultation and the recommendations of the Licensing and Regulatory Committee and make further amendments to the proposed policies prior to adoption. The policies will come into effect as stated in paragraphs 12 and 14.
20. Option 3 – take into consideration the responses received from the consultation and determine that a change to the current policy is not required.

Analysis

21. The convictions are in line with the new guidance issued by the Institute of Licensing (IOL), that the offences to be considered in the proposed policy are:
 - crimes resulting in death or intended to cause death or serious injury
 - exploitation
 - violence
 - possession of a weapon or any other weapon related offence
 - sex and indecency
 - dishonesty
 - drugs supply
 - drugs use
 - discrimination
 - drink driving / driving under the influence of drugs
 - driving whilst using a hand held telephone or other device
 - minor traffic or vehicle related offences
 - major traffic or vehicle related offences
 - hackney carriage or private hire offences
 - vehicle use offences
22. Since the introduction of the IoL guidance in April 2018, it has become common practice for Licensing Authorities to adopt the provisions of this guidance. The DfT has recently consulted on Statutory Guidance for Licensing Authorities, if this guidance is implemented Licensing Authorities would have to justify their position if they do not comply with the requirements of the guidance.

Council Plan

23. This report helps ensure the Council is meeting its statutory duties.

Implications

24. **Financial** – There are not financial implications

25. **Human Resources (HR)** - There are no HR implications.

26. **Equalities** – There are not equality implications, taxis are a preferred method of transport for many residents and visitors to the city with a disability.

27. **Legal** – Any changes to the licensing policy could be challenged by an aggrieved party to the High Court.

28. **Crime and Disorder** – There are no crime and disorder implications.

29. **Information Technology (IT)** – There are no IT implications.

30. **Property** – There are no property implications.

31. **Other** – There are no other implications.

Risk Management

32. Making changes to the taxi licensing policy in respect of training and the suitability of applicants and licensed drivers to ensure it is consistent with other areas creates a risk score of 2 on the Council's Risk Register (a blue risk) on the matrix. This is because there is a 'remote' risk of a minor impact i.e. 'little or no media coverage' in making the changes. Failing to make the changes raises the risk of media coverage to 'possible', furthermore any such coverage is more likely to be adverse.

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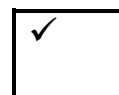
Neil Ferris
Corporate Director of Economy and Place

Report
Approved



Date 18/09/19

All



Wards Affected:

List of abbreviations

Department for Transport (DfT)
Institute of Licensing (IoL)

Background papers

GLRC Meeting – 18.3.19

<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=606&MIId=10533&Ver=4>

GLRC Meeting – 15.7.19

<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=606&MIId=11472&Ver=4>

Taxi Licensing Policy

https://www.york.gov.uk/downloads/file/9715/taxi_licensing_policy

Annexes

Annex 1 - Proposed Driver Training Policy

Annex 2 - Proposed Policy Determining the Suitability of Applicants and Licensees as Drivers in Taxi and Private Hire Licensing

Annex 3 - Summary of responses to the Driver Training Policy Consultation

Annex 4 - Summary of responses to the Suitability Policy Consultation