

## **Gambling, Licensing & Regulatory Committee 15 July 2019**

Report from the Assistant Director – Planning and Public Protection

### **Taxi Licensing Policy – Amendments**

#### **Summary**

1. This report seeks Members recommendation to the Councils Executive for approval to amend the Taxi Licensing Policy in relation to determining the suitability of applicants and licensees as drivers in taxi and private hire licensing.
2. It advises of the consultation undertaken and the amendments made to the proposed policy following the consultation.
3. It asks for the Licensing Manager, in consultation with the Licensing and Regulatory Committee Chair and Senior Officers (Licensing Manager level and above), to make any minor changes that may be necessary to the policy, so that it remains consistent with the standards applied by the West Yorkshire Authorities.

#### **Recommendations**

4. That Members approve Option 1 of this report.

Reason: This will allow the Council to make amendments to the Taxi Licensing Policy in relation to determining the suitability of applicants and licensees as drivers in taxi and private hire licensing, aligning the Council's Policy with that of the West Yorkshire Authorities. Adopting this policy will help to ensure that people across the six authority areas are transported safely and protected from harm to standards applied consistently across the area.

#### **Background**

5. Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and 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. Council Leaders of the five West Yorkshire Authorities and 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 one of the areas to address was the suitability of applicants and licensed drivers especially in relation to convictions.
7. 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 drivers are and remain fit and proper to hold a licence.
8. Taxis and private hire vehicles are used by almost everyone but are used regularly by vulnerable groups:
  - children
  - the elderly
  - disable people
  - the intoxicated
9. A driver has significant power over a passenger who places themselves and their personal safety in the driver's hands. Therefore the standards of safety and suitability are set high to give the public the assurance it requires when using taxi and private hire services. The Council does not strike a balance between the driver's right to work and the public's right to protection. The public are entitled to be protected. This means that the Council is entitled and bound to treat the safety of the public as the paramount consideration.
10. It is already a requirement for the six licensing authorities that new driver applications must undertake an enhanced Disclosure and Barring Service (DBS) check prior to being licensed; it is also a requirement that existing licensed drivers must undertake an enhance DBS at least once every three years.
11. To meet their duties to protect the public the six authorities worked in partnership, considering the existing policies already in place for each authority and the new guidance issued by the Institute of Licensing (IoL), 'Guidance on Determining the Suitability of Applicants and Licensees in the Hackney Carriage and Private Hire Trades', to develop the proposed policy which can be found at Annex 1. The policy is compliant with the new guidance, adopting the strict tariffs. In April

2019 the IoL guidance was included as a proposal within the draft Statutory Guidance for Licensing Authorities 'Taxi and Private Hire Vehicle Licensing: Protecting Users', which has been out for consultation by the Department for Transport (DfT).

12. Bradford implemented this policy on the 7 February 2019. It has been agreed by Calderdale, Kirklees, Leeds, Wakefield and York local authorities that the policy will be implemented in line with each authority's decision making process, in the case of the City of York this will be the 1 October 2019 following the Council's Executive in September.

## **Consultation**

13. 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.
14. The consultation was carried out by direct mailing via email and letter, with the proposed policy available on the Councils website, with hard copies available at the Customer Centre at West Offices and the Reception of the Eco Depot.
15. 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.
16. City of York received 50 responses to the consultation:
  - 17 – licensed driver
  - 3 – licensed private hire operator
  - 17 – licensed vehicle proprietor
  - 1 – licensed driver/private hire operator
  - 9 – licensed driver/licensed vehicle proprietor
  - 2 – member of the public
  - 1 – not specified
17. A summary of the City of York consultation responses and comments received can be found at Annex 2. From the responses received it is clear that respondents are in favour of this policy.

18. A summary of the consultation responses from the five authorities can be found at Annex 3.

## **Options**

19. Option 1 – take into consideration the responses received from the consultation and recommend to the Council’s Executive to approve the new taxi licensing policy in relation to determining the suitability of applicants and licensees as drivers in taxi and private hire licensing. The new policy will come into effect from the 1 October 2019.
20. Option 2 – take into consideration the responses received from the consultation and make further amendments to the taxi licensing policy in relation to determining the suitability of applicants and licensees as drivers in taxi and private hire licensing prior to recommending to the Councils Executive to approve. The new policy will come into effect from the 1 October 2019.
21. Option 3 - take into consideration the responses received from the consultation and determine that a change to the current policy is not required.

## **Analysis**

22. The Rehabilitation of Offenders Act 1974 does not apply to any person applying for a private hire or hackney carriage driver’s licence on initial grant or on renewal. Applicants are required therefore to disclose all convictions, including those that would normally be regarded as ‘spent’.
23. There is provision within the 1976 Act for Councils to suspend or revoke the licence of a hackney carriage or private hire driver:
  - a) 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
  - b) for any other reasonable cause.
24. It is a requirement of the City of York’s Taxi Licensing Policy that licensed drivers shall inform the Council within three days of any conviction being recorded against them or any Company to which they are a Secretary or Director. Under Common Law Police Disclosure the Police can disclose information to a Licensing Authority relating to a licensed driver if there is a pressing social need. The Police may

disclose information following the arrest of a licensed driver if they believe there is a potential risk, for example if a driver has been arrested for an offence involving violence or sexual assault, it is then for the Licensing Authority to determine the risk of the driver retaining their licence.

25. Convictions and the Rehabilitation of Offenders Act 1974 are covered within section 29 and Appendix 8 of the City of York's Taxi Licensing Policy. Within the Council's Scheme of Delegation the Managers within the Public Protection Service, the Head of Public Protection, the Assistant Director for Planning and Public Protection and the Director of Economy and Place have delegated powers to determine whether a new applicant or a licensed driver is a fit and proper person.
26. It was agreed by Licensing Committee Chairs and Managers of the six authorities, in line with the new guidance issued by the IoL, that the offences to be considered in the proposed suitability 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
27. 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 guidance can be found at Annex 4. As stated at paragraph 11 of this report 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 Priorities**

28. 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

29. The direct implications arising from this report are:

- (a) **Financial** – There are no financial implications.
- (b) **Human Resources (HR)** - There are no HR implications.
- (c) **Equalities** – An equality impact assessment has been undertaken.
- (d) **Legal** – Any changes to the licensing policy could be challenged by an aggrieved party in the High Court.
- (e) **Crime and Disorder** – There are no crime and disorder implications.
- (f) **Information Technology (IT)** - There are no IT implications.
- (g) **Property** - There are no property implications.
- (h) **Other** - There are no other implications.

### Risk Management

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

### Contact Details

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<b>Report Approved</b>	√	<b>Date</b>	04/07/19
<b>Specialist Implications Officer(s)</b>			
<b>Wards Affected:</b>		<b>All</b>	√

<b>For further information please contact the author of the report</b>	

## **Background papers**

Taxi Licensing Policy

[https://www.york.gov.uk/downloads/file/9715/taxi\\_licensing\\_policy](https://www.york.gov.uk/downloads/file/9715/taxi_licensing_policy)

**Annex 1** – proposed policy to determining the suitability of applicants and licensees as drivers in taxi and private hire licensing

**Annex 2** – summary of City of York consultation responses

**Annex 3** – summary of consultation responses for the five licensing authorities

**Annex 4** – IoL Guidance