

**Report of the Service Director to the  
General Licensing Regulatory Board  
to be held on the 22 December 2021**

**Taxi and Private Hire Policy Review Consultation Responses 2021**

**1. Purpose of Report**

The purpose of this report is to inform Members of the Taxi and Private Hire Policy consultation responses and seek views and recommendations in relation to the same for Cabinet and Full Council.

**2. Background**

Members will be aware that the Department for Transport (DfT) has recommended that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include policies on convictions, a 'fit and proper' person or 'suitability' test, conditions of licence and vehicle specifications and standards.

When formulating any taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public by ensuring that the licensing regime protects the vulnerable.

In respect of this Officers produced our Draft Taxi and Private Hire Licensing policy and carried out a statutory consultation from the 25 June 2021 to the 3 September 2021 to seek the views and opinions of all interested parties.

**3. Current Position**

The Council is responsible for the regulation of taxi and private hire services within its area.

We have a statutory duty to have regard to and fully recognise the importance of the new statutory standards published by the Department for Transport in July 2020. Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, it is considered that all passengers will benefit from the recommendations contained in it.

The policy sets out the requirements and standards that must be met by those working within the trade as drivers, vehicle proprietors or operators.

Changes have been made to some existing conditions of licence to ensure they are accurate and reflect current practises and to ensure that we are applying consistent standards with the other Licensing Authorities in South Yorkshire.

The principal purpose of taxi and private hire licensing is to protect the public and promote public safety.

The following responses were received following the statutory consultation:-

- 1) The policy is detailed and well thought out.. however I would like to see that car cameras that can record both internally and externally are fitted to all licenced Taxi vehicles across Barnsley and the country to protect the driver and passengers during the course of their journey and after drop off.  
this footage can then be reviewed by the licensing team or police if required to show any wrong doing by ether party should it be requested.  
the driver does have a duty of care to all passengers to ensure they get from A to B and to C if required in a safe and comfortable manor. if anyone has cause for concern this should be reported as soon as possible so this issues can be looked into. Camera footage will be very beneficial to this process and will help with the enquiry.  
as a member of the licensing panel, at present we only have the word of the driver and the passenger(s). dash cam footage would help all involved to determine the situation better and the outcome. it would**

**also make passengers feel relaxed on their journey and give the driver, and their family confidence over all.**

Officer response - the draft policy has been amended to include the following:-

**2.109 DfT recognises that, in certain circumstances, CCTV in licensed vehicles can give confidence and reassurance to both drivers and passengers.**

**2.110 The issue of whether CCTV should be installed in Barnsley MBC licensed vehicles is something the Council has been keeping under review and will continue to do so. Should local circumstances indicate in future that there is a case for mandating in-car CCTV this will be subject to further consultation.**

**2.111 In the meantime, the Council will continue to encourage any driver or vehicle proprietor who individually wishes to install CCTV, (meaning an inward facing camera and possible audio recording facilities) in their vehicle. If any drivers wish to install CCTV or a dashcam they should be aware of the requirement to register with the ICO and be aware of the following guidance at <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf> and the Home Office's Surveillance Camera Code of Practice at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/204775/Surveillance Camera Code of Practice WEB.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance%20Camera%20Code%20of%20Practice%20WEB.pdf).**

**2.112 The DfT is currently asking all licensing authorities to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users.**

**2) I am supportive of the new policy but have one huge concern. In 2019 the council declared a climate emergency. We should be ensuring that taxis and private hire vehicles are becoming greener. I appreciate that to move to electric vehicles overnight would not be achievable or give taxi drivers sufficient time to change their vehicles. However surely the policy should contain enforceable targets of reducing CO2 emissions in all vehicles over the period from now to (say) 2025.**

Officer response - the draft policy has been amended to include the following at 2.121:-

*Whilst not formally part of this Policy the Council will continuously explore any opportunities available through national or regional schemes and initiatives to encourage or incentivise the uptake of electric or hybrid vehicle by the trade, in support of the Council's 2040 carbon neutral target for the Borough. The government offers grants to support the wider use of electric and hybrid vehicles via the Office of Low Emission Vehicles (OLEV). Licensed drivers are encouraged to find out more on [GOV.UK electric vehicle grant scheme](#). Consideration will be given to the numbers and locations of charging points available to the trade. Any future targets for reducing CO2 emissions in licensed vehicles would be subject to further consultation.*

- 3) Page 15 "Promoting Equality" - need to add the protected characteristic of "marriage and civil partnership"

Officer response - the draft policy has been amended to include the protected characteristic of "marriage and civil partnership".

- 4) A lengthy response to the consultation was also received for consideration, the majority of which has been agreed by amended wording or clarification to the draft policy document, however the following important points require further member consideration and recommendation:-

- a) Appendix J – The suitability policy the Council has appended to its draft Policy is not that promulgated by the DfT at pgs. 35 & 36 of the Statutory Standards and the Council has not explained why it proposes to deviate from the Statutory Standards.

The suitability policy promoted by the DfT is based on that produced by the IOL in association with others, but has distilled 19 pages into just 2 easy to read and understand pages.

The Council is encouraged to adopt the DfT suitability policy, subject to only one aspect in respect of which the Council is asked to depart, having due regard to the GLRB's experience and knowledge. The Council is asked to retain its existing policy in relation to motoring convictions, i.e. to only refer a driver to a GLRB Panel upon them accruing 9 or more penalty points.

**The Council is also asked to count only penalty points that are live for totting-up purposes and to retains its practice of requiring, in appropriate cases, for a driver to retake a driving assessment or even to undertake a driving course and / or test approved by the Council, but to also extend that to advanced driving courses and tests approved by the DVLA.**

Officer recommendation and response -

**The Council should adopt the IOL suitability guidance in its entirety.**

The council is proposing to adopt the IOL suitability guidance in its entirety as safeguarding is the upmost priority. Officers feel strongly towards adopting the suitability guidance produced by the Institute of Licensing (IOL) as the document strengthens our current convictions policy and explains in detail the importance of such a document and all its considerations. It is hoped by the IOL that this policy will be adopted nationally and then provide national consistency between authorities. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. This document compliments the statutory guidance on determining suitability taking into account the character of the applicant or licensee and it considers how regard should be had to the antecedent history of the applicant or licensee and its relevance to their "fitness and propriety" or "character". It explains how, when determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee and that Officers are not simply concerned with that person's behaviour whilst working in the hackney carriage or private hire trade and that the considerations are far wider than simply criminal convictions or other evidence of unacceptable behaviour. It explains how the entire character of the individual will be considered and this can also include the individual's attitude and temperament. It explains how it is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will

also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.

As always each case put before the GLRB will be determined on its own merits and Members may fetter their discretion and depart from the suitability policy in exceptional circumstances and where they consider it appropriate to do so.

*4.42 of the Suitability Guidance states, “where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed”.*

The councils current convictions policy refers to a maximum of 8 points and so the new suitability guidance still captures any driver who commits 3 SPO offences and strengthens our current position.

Officers would recommend that Members retain its practice of requiring, in appropriate cases, for a driver to retake a driving assessment or even to undertake a driving course and / or test approved by the Council, but to also extend that to advanced driving courses and tests approved by the DVLA.

The consideration of LIVE points is a matter for Member consideration and recommendation

**b) Pg. 5 under the heading 'Medical Questionnaire' of the previous page, the first paragraph refers to medicals being conducted every 5 years from 45 to 60 years of age. This is not consistent with the DVLA Group 2 medical standards, as already addressed in relation to Appx A, pg. 2, sub-para c where it was submitted:**

**"Sub-para c. is conflicted in that different rules are being applied to HGV / PSV drivers and other licensed drivers in that someone holding an**

**HGV / PSV licence will not be required to submit to an annual medical from the age of 60. The DVLA Group 2 medical standard is every 5 years from 45 to 65 and then annually.”**

Officer recommendation and response

**Officers recommend that we retain the requirement for a medical report to be produced every year from the age of 60.**

As appendix A - Any HGV/PSV driver over 60 would be covered by their DVSA medical and this is checked annually by Officers. Where there is a relevant medical condition the DVSA would take the necessary steps in suspending or revoking this licence and we would then make further enquiries with the driver and ask for a full medical to be provided.

Officers are concerned that to change our current practice would mean lowering our current standards.

As people age there is a naturally increased likelihood of developing medical conditions and officers believe that it is imperative to ensure that licensed drivers are healthy enough to operate their vehicles and carry members of the public safely.

Whilst not formall part of this draft policy, following an investigation carried out by the DVLA and Trading Standards officers, Officers propose that we will no longer accept D4 medical reports from the company called Doctors on Wheels.

- c) Pg. 6 under the heading ‘Other Information’, which would probably be better headed ‘Fees’ wrongly asserts that “fees paid in respect of a licence is an ‘application fee’ and is not refundable”. This is not legally correct. LG(MP)A 1976, s 53(2) expressly states that “a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such fee ...”. As the fee for the licence is only payable on grant, if a

licence is not granted for whatever reason, the Council is obliged to refund the licence fee.

The Council may, however, charge and retain fees charged for other items, such as for the knowledge test, DBS check, etc pursuant to the decision of the Court of Appeal in relation to vehicle licence fees in *Liverpool City Council v Kelly [2003] EWCA Civ 197*.

Officer recommendation and response

Officers recommend that the application fee charged is non-refundable.

Officers maintain that the Council can charge for the administration involved in the granting of a licence.

**d) Vehicle age**

For the purposes of ensuring vehicles meet high, if not highest, Euro emission standards and for generally raising and promoting the standard of vehicles within the trade, my client suggest that the Council should introduce a vehicle age limit.

My client suggests that all vehicle licences should expire on the eighth anniversary of the date of first registration of the vehicle.

This will mean that by the end of 2023 all vehicles licensed by the Council will have to be Euro 6 emission compliant and / or hybrid or an electric vehicle, because the Euro 6 emission standard was effective from September 2015.

It will also mean that, in the future, standards will be maintained and that, if further Euro emission standards (or a UK equivalent) is introduced, proprietors will be required to upgrade to these lower emission vehicles in due course.

Officer response – this point is now addressed at 2.121 of the draft policy in relation to the Barnsley 2040 carbon neutral target.

**e) Driver licence application process:**

**Whilst probably a process issue, rather than a matter of policy, my client should wish to take this opportunity to raise with the Council the need to streamline and / or expedite the driver licence application process. As I am sure the Council will appreciate, there is currently a pandemic and post-Brexit induced shortage of drivers, whether that be taxi drivers or HGV drivers. Indeed, some taxi drivers who also hold HGV driver licences are likely to have resumed HGV driving as a result of the joining incentives and higher wages that are currently being offered by the haulage and retail industries.**

**Regrettably, the longer it takes for someone to become licensed, the greater the likelihood that they will not complete the process, because they secure other employment that is not in a regulated industry and does not require them to become licensed.**

**Officer response** – The speed of the application process for a driver is not within the control of officers. When the Licensing section receives a full and accurate driver application the said application is processed with high priority with a target to issue driver licences within three working days.

**f) Driver topographical knowledge test**

**One of the requirements that is known to delay a driver applicant's progression through the licensing process is the need to pass a topographical knowledge test.**

**The requirement to pass a topographical knowledge test has been discouraged by the DfT since it published the Best Practice Guidance in 2010. In this regard, see paragraph 76. If, as the DfT suggests, a topographical knowledge test for private hire drivers is an "unnecessarily burdensome" requirement, the imposition of such a requirement would be to breach the Regulators' Code obligation at paragraph 1.1 not to impose "unnecessary regulatory burdens".**

**In order to facilitate removal of the requirement to pass the topographical knowledge test, it is acknowledged that the Council would have to reintroduce a separate private hire driver's licence, as well as**

**retaining the dual driver's licence. As the process and cost for issuing a separate private hire driver's licence would be the same as issuing a dual driver's licence, the fees charged by the Council ought to be the same. To set such a fee would not require the Council to go out to consultation, as that is not a requirement for driver licence fee setting under section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976.**

**Anyone who obtained just a private hire driver's licence should then be able to acquire a dual driver's licence upon passing the topographical knowledge test and paying a fee for the issue of the dual driver's licence and badge.**

**Officer recommendation and response**

Officers recommend retaining the topographical test as a means of ensuring all our licensed drivers have a good working knowledge of the area.

The 2010 guidance says taxi drivers need a good working knowledge of the area for which they are licensed and Officers would strongly suggest that Private hire drivers need the same. In addition, all other South Yorkshire local authorities require a local knowledge test and so Officers are concerned that if this requirement was removed in Barnsley we would then have a lower standard of driver application than our neighbouring authorities and may attract applicants who struggle to pass the local knowledge test in other areas.

**g) Additionally, my client urges the Council to require operator livery to be semi permanently affixed to the vehicle. Semi-permanent signs are affixed to paintwork and can be easily removed without causing damage to the paintwork, but cannot be reaffixed.**

**Such signs are required by many local authorities, not least the rather controversial Wolverhampton City Council.**

**The advantages of semi-permanent door signs are that they are always displayed and not easily removed. This prevents those operating illegally from displaying stolen magnetic door signs to impersonate a**

**licensed vehicle. With the current shortage of drivers, it is likely that there will be a proliferation of ‘Facebook Taxis’, a generic term used to refer to unlicensed individuals who use social media platforms, such as Facebook but not exclusively that social media platform.**

**Although it only occasionally happens, magnetic signs can cause injury to pedestrians or damage to other vehicles if they come off when a vehicle is being driven, or if they are thrown up from the road by another vehicle after they have fallen off, or thrown by youths throwing them like Frisbees.**

**Officer recommendation and response**

Officer recommend that should Members wish to consider this option then it should be included as part of a further consultation with the trade. This subject has been raised with the trade on previous occasions and met with strong opposition from both trade representatives and drivers.

A copy of the draft taxi and private hire policy which has been updated to reflect the amended wording and clarifications and points referred to above has been included in this report at Appendix 1.

**4. Proposal**

Members are asked to consider the draft policy and give proper weight to all responses received.

**5. Recommendation**

That members approve the draft policy document which has been amended to correct grammatical errors and clarify points of legislation and consider the draft policy and the responses received as contained within the body of this report and make their recommendation to Cabinet and Full Council accordingly.

**6. Officer Contact**

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