

# LICENSING COMMITTEE

## Lancaster Draft Hackney Carriage and Private Hire Licensing Policy

18 March 2021

### Report of Licensing Manager

#### PURPOSE OF REPORT

To provide the Committee with a Draft Hackney Carriage and Private Hire Licensing Policy for consideration, and to seek the Committees approval to commence a formal consultation on the proposed policy.

The report is public

#### RECOMMENDATIONS

- (1) That the Committee consider the report and appendices and approve the draft policy (Appendix 1) and suggested consultation process with or without amendment
- (2) That the Committee approve the consultation questionnaire (Appendix 3) to be used as the format for the online consultation
- (3) That officers consider the consultation responses received and bring a further report back to committee providing information in respect of consultation responses received and any proposed amendments to the draft Policy arising from the consultation

#### 1.0 Introduction

- 1.1 Attached at **Appendix 1** is Lancaster's draft hackney carriage and private hire licensing policy. This is the first time that the Council has attempted provide a single document containing all policies and procedures relevant to the hackney carriage and private hire licensing process.
- 1.2 The need to update and develop some of the Councils licensing standards was identified in the 2020 licensing workplan approved in November 2019 by this Committee. The delivery of the workplan items was hampered by the pandemic, and in July 2020 the DfT published its "Statutory Taxi and Private Hire Vehicle Standards. These published standards are statutory standards to which local authorities must have regard.
- 1.3 A separate report on this meetings' agenda provides an update in terms of the work

that has been undertaken in terms of compliance with the DfT standards. As indicated in previous reports the Council already met several requirements of the DfT standards but other aspects of local licensing standards did require further development and these overlapped with the activities that had been identified in the 2020 workplan.

- 1.4 Additional temporary staffing resources have worked alongside the licensing manager on the production of the proposed draft licensing policy (Appendix 1).
- 1.5 The draft policy contains 7 chapters,
  - Background
  - Introduction
  - Administrative and Operational arrangements
  - Driver standards
  - Vehicle standards
  - Operator standards
  - Enforcement and compliance

The content of the policy is a mixture of existing policies and procedures and new requirements which are motivated by the need to ensure that the primary and overriding objective of the Councils licensing policies is to protect the public.

- 1.6 A list of background documents which have assisted in the formulation of the draft policy is attached at **Appendix 2**.

## **2.0 Report**

- 2.1 The publication of the DfT statutory standards in July 2020 has been one of the key drivers in the production of the draft policy. Members will note that the DfT document is titled Statutory Taxi and Private Hire Vehicle Standards. The City Councils draft policy does not use the term "taxi" but is titled Lancaster City Council Hackney Carriage and Private Hire Licensing Policy DRAFT (The draft Policy) . The reason for this is that the term hackney carriage is used throughout legislation including hackney carriage byelaws, and therefore for consistency this is the term that is used throughout the draft policy. The term "taxi" is a term used by the public and is internationally recognised, but not one that is used to any major significance in national licensing law.
- 2.2 As detailed in para 1.5 above the draft policy contains seven distinct chapters with most of the chapters broken down into sub sections. Throughout the draft policy there is reference to a wide range of appendices (Appendices A- P). The appendices largely reflect individual specific sets of licensing standards for example, conviction and conduct policy, different categories of licensing conditions, lists of licensing offences etc, the policy has been drafted in such a way that if the standards need to change for example due to a change in legislation this can be easily accommodated by updating relevant appendices rather than reviewing the whole policy.
- 2.3 Prior to presenting the draft policy for the Committees consideration, there has been some preliminary consultation. A meeting of the taxi working group was convened and trade representatives invited to make suggestions as to what they considered should be included within the draft policy. It is acknowledged that without having sight of the draft policy it may have been difficult to make specific suggestions, a request was made for private hire vehicles to be allowed access to bus lanes, however this is a matter for Lancashire County Council as the relevant highway authority and therefore

has not been included within the draft policy. There was also a comment from a trade representative that CCTV in licensed vehicles could assist the safety of licensed drivers, but that the effective systems were expensive and therefore considered cost prohibitive by the licensed trade.

- 2.4 In addition to this a short survey was conducted with Lancaster City Council staff and the wider public on the Councils social media platforms. A summary of the survey responses is included at **Appendix 3**.

In total a number of 153 responses were received. It was interesting to note that 89% of those completing the survey were users of Taxi services and that 85% generally felt safe whilst travelling in licensed vehicles. 81% of those questions stated they knew there was 2 types of licensed vehicle, but only 2 individuals noted the visual difference.

- 2.5 The draft policy includes proposals to strengthen the differential identification of the two types of licensed vehicles. There is requirement for uniformity in roof signs to be applied to hackney carriage vehicles and amended door signage to be provided by private hire operators. The proposal is that any private hire operator will not be able to include the word "taxi" in any of its door signage for private hire vehicles, and that all private hire operators door signage in respect of private hire vehicles must have 1/3 of the signage displaying the wording Pre-booked Fares Only in a specified colour/size font against a pantone background. (ie transport yellow colour).
- 2.6 The DfT Statutory Standards make it clear that public safety must be the primary and overriding objective of hackney carriage and private hire licensing. The draft policy strengthens existing measures in respect of safeguarding, which is already an integral part of driver training, a new proposal within the draft policy is a requirement for private hire operators to develop and implement safeguarding policies (contained within Appendix P). The policy is also clear about everyone's responsibilities to report any safeguarding concerns. The development of a public information charter (Part of appendix B of the draft policy) seeks to provide advice to passengers about how to stay safe when using licensed vehicles.
- 2.7 Licence conditions attached to the grant of private hire operator, private hire vehicle, private hire driver and hackney carriage vehicle licences have been reviewed and updated to reflect changing technology, for example there is now specific provision made for some notifications to be made via email rather than in writing. The proposed licence conditions have also been strengthened in terms of public safety. The proposed licence conditions are attached as Appendices E, L, M and P. The format of these appendices has been laid out in 3 parts, with reference to the current conditions, officers comments and the proposed conditions, this has been done for the purposes of consultation so that consultees have information as to why the proposed conditions are deemed "reasonably necessary". The legislation dictates that conditions attached to the grant of licences should be "reasonably necessary".
- 2.8 The committee will note that there are no hackney carriage driver licence conditions, this is because there is no provision in legislation for such licence conditions. There is however a requirement for both private hire and hackney carriage drivers to remain "fit and proper" to hold their licences. The hackney carriage driver code of conduct has been updated to provide hackney carriage drivers with information as to the standards they are expected to follow in order to maintain the "fit and proper" standard. The hackney carriage byelaws are found at Appendix F of the draft policy, these remain as approved by the Secretary of State on 26 March 2014. Byelaws cannot be amended without approval by the Secretary of State.

- 2.9 The Councils Guidance on determining the suitability of applicants and licensees for hackney carriage and private hire licences, has been reformatted and slightly amended. Much of the document has been copied into the new draft policy whilst the section relevant to convictions and conduct has been reformatted into Appendix A which is now titled Guidelines on the relevance of convictions and other conduct. The standards within that document remain largely unchanged. The DfT Statutory standards recognises the merits of these standards (taken from the Institute of Licensing document "Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades). There is one anomaly between the Institute of Licensing and DfT Statutory Standards and that relates to private hire operators, with the suggestion that some convictions relevant to licensed drivers may not have the same degree of relevance to a private hire operator, for example an isolated motoring offence may be less relevant to a private hire operator than a licensed driver. The Councils proposed Guidelines on the relevance of convictions and other conduct (Appendix A of the draft policy) acknowledges this and adopts the position advocated by the DfT statutory standards.
- 2.10 The draft policy contains vehicle specifications for both hackney carriage and private hire vehicles (Appendices I and J). It is important applicants for vehicle licences are fully aware of the specification licensed vehicles have to meet prior to licensing. Information on vehicle specifications was previously weak and documented within vehicle licence conditions, however licence conditions only become applicable once a licence has been granted. It is considered important that applicants for vehicle licences have access to the vehicle specification prior to the purchase/ licensing of a vehicle.
- 2.11 The draft policy introduces new requirements for licensed vehicles in respect of less polluting vehicles. This measure is in support of the Councils declaration of a climate emergency and measures currently in planning to improve the environment around the city centre and specifically to assist in meeting compliance with air quality standards. The changes proposed in respect of vehicle exhaust emission levels are for 2025 and 2030, the first being the date when any vehicle first licensed must be ULEZ and 2030 being the date when any new vehicle first licensed has to be zero exhaust emission.
- 2.12 The DfT statutory standards are explicit about the need to educate the public about staying safe and the risks associated with the unlicensed trade. The draft policy proposes an information leaflet to be made widely available regarding safe travel in the taxi trade and the draft policy also proposes a public information charter to be displayed in all licensed vehicles, this includes information about passenger safety as required by the DfT but also includes information about the conduct expected of passengers. It also highlights not only how a passenger can make a complaint (a requirement of the DfT standards) but also how they can forward compliments regarding their journeys.
- 2.13 Medical requirements for licensed drivers have been maintained in the draft policy as the DVLA group 2 medical standard. However, the draft policy is now completely aligned with the DVLA group 2 standard in terms of frequency of medicals as opposed to the medical standard to be achieved. In effect this means younger drivers will need less frequent medicals. Public Safety is maintained by the requirement on all licensed drivers to notify the Council of changes in health, and the requirement to have additional medicals if considered necessary by the Council. The proposed frequency of medicals is in line with the frequency applied by the DVLA to HGV and bus drivers.
- 2.14 The DfT statutory standards are clear that Councils should consult regarding peoples views as to whether the presence of CCTV in licensed vehicles would:

- Assist in deterring and preventing the occurrence of crime
- Reduce the fear of crime
- Assist the police in investigating incidents of crime
- Assist insurance companies in investigating motor vehicle accidents

The current draft policy contains no proposals for CCTV in licensed vehicles however it's is recognised that this must be included as a key issue within the consultation exercise. The Council has reviewed the complaints received in 2019 and 2020 regarding private hire and hackney carriage activities and estimate that approx. 40 % of complaint investigations could potentially have benefitted from the availability of CCTV from licensed vehicles. There are a small number of local authorities that currently mandate the requirement for CCTV in licensed vehicles, the technical specification used in these authorities is largely similar. A certain specification is required to make the CCTV systems fit for purpose, for example CCTV systems need to work in poor light/ night conditions, they need to cover all seated areas in the vehicle, they need to store data for a sufficient level of time for its to be retrieved by the police or local authority, they need to create good quality imaging. A proposal regarding any requirement on CCTV will be made following the close of consultation.

### **3.0 Consultation**

3.1 The draft policy has been compiled by experienced licensing officers having regard to the wide range of documents referenced in Appendix 2 and, existing licensing procedures and practice within the City Council. Very preliminary discussions have also taken place with trade representatives regarding their aspirations from such a policy. The draft policy will benefit from widespread consultation and scrutiny.

3.2 The following is an extract of para 3.12 from the draft policy

*The Council will carry out consultation on this draft policy. The consultation will include the licensed trade and groups of people who may represent customers of hackney carriage/private hire users, other regulatory bodies, night-time economy representatives, lead authorities in respect of safeguarding matters, examples of consultees include;*

- *Hackney carriage and private hire trade reps*
- *Licence holders*
- *Agencies responsible for railway stations*
- *Police*
- *Other local Authorities*
- *Representatives of local disability groups*
- *Pubwatch*
- *Lancashire County Council school transport providers*
- *Hospital and other key health providers*
- *Local Councillors*
- *Educational bodies including universities and colleges*
- *Relevant safeguarding leads*
- *Public via website and street surveys*

*Consultation will be undertaken having regard to Govt guidance on how consultation should be carried out. In 2000 the Government published its Code of Practice on consultation the latest version of this is version 3 published in 2008 by the Department for Business, Enterprise and Regulatory Reform. More recently in 2018 the Cabinet office published the*

*Government Consultation principles, the Council will have regard to both documents when undertaking consultation on this draft policy*

*This draft policy has been developed during the covid pandemic, it is likely that the consultation will take place whilst restrictions are in place and therefore consultations which may previously have been undertaken face to face may have to take place using other types of communications.*

***The section of the policy will be redrafted for the final version and will focus on how consultations will be carried out in the future***

- 3.3 It is proposed that as many as possible of the groups are contacted directly in writing advising them of the draft policy and inviting them to comment on the same. In order to evaluate responses and direct respondents to the key issues it is proposed that respondents are directed to an online questionnaire which asks for their comments and, to enable those comments to be evaluated asks for an explanation / reasoning for the views expressed. The use of an online questionnaire will also enable the responses to be evaluated digitally rather than manually. A copy of the proposed consultation questionnaire is attached at **Appendix 4**. The question re CCTV is a direction from the DfT Statutory Standards which states that” *all licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues*”
- 3.4 It is proposed that the consultation process be commenced on Monday 29<sup>th</sup> March 2021. This allows sufficient time for officers to prepare any amendments to the draft policy, consultation letters and the place the questionnaire on the Councils website. It is proposed that the consultation should last 12 weeks, the last date for representation will be Sunday 27<sup>th</sup> June 2021.

### **3.0 Conclusion**

- 3.1 The production of a comprehensive Hackney Carriage and Private Hire Licensing policy, aims to provide a focal reference point for, officers, members, those working in the hackney carriage and private hire trades and members of the public. It is not possible to include every single relevant reference to licensing issues within the policy, but where the information isn't available in the policy it seeks to direct readers to the appropriate reference point, whether that be legislation or the Councils website.
- 3.2 Many of the issues addressed in the draft policy had already been identified as needing review in the licensing 2020 workplan. The publication of the DfT Statutory Standards in July 2020 was fortunate in that it meant the review of the statutory standards could be conducted in parallel with the work identified in the Licensing workplan.
- 3.3 The draft policy details the Councils approach to comply with the majority of the DfT Statutory Standards, the remaining elements tend to operational matters, and are discussed in a separate report included on this agenda.

**CONCLUSION OF IMPACT ASSESSMENT  
(including Health & Safety, Equality & Diversity, Human Rights, Community Safety,  
Sustainability and Rural Proofing):**

**LEGAL IMPLICATIONS**

The Statutory Taxi and Private Hire Vehicle Standards are not legislation. However para 1.3 of the Standards states- The Department (for Transport) expects these recommendations to be implemented unless there is compelling local reason not to

The document makes it clear that the standards have been developed as a result of past failings of licensing regimes and makes reference to both Jay and Casey reports and lists several local authorities where taxi licensing policy and practice had failed to offer the necessary protection to children.

The duty is a “have regard” duty. This means that the Council must take the standards into account and must give clear reasons for departing from them

**FINANCIAL IMPLICATIONS**

There has been additional staffing costs associated with the production of the draft policy . It is expected that these costs will be built into the budget setting process and recovered from licensing fees.

Proposals within the draft policy will result in additional direct costs to the licensed trade, the main cost of which will be the capital cost associated with the purchase of ULEZ and zero emission vehicles. However the running costs associated with these types of vehicles is considerably less than vehicles which use diesel or petrol fuel.

Financial implications to the licensed trade will become clearer following the consultation process/ adoption of the final policy,

There is also the potential for challenges by the trade to any change in policy that are brought in and if so, this may incur legal costs to defend any such challenge.

Any additional costs associated with the administration and enforcement of the taxi licencing regime can be recovered via taxi licensing fees.

**OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services,  
Property, Open Spaces**

**BACKGROUND PAPERS**

Report to licensing Committee 27 August 2020, 8 October 2020 .

Other reference documentation is detailed in Appendix 2

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