

Report to Environment and Licensing Committee

Subject: Department of Transport Statutory Taxi & Private Hire Vehicle Standards

Date: 14th January 2025

Author: Director of Place

Purpose

To inform Members of the results of the consultation carried out in 2021 regarding the impact of the Department of Transport's Statutory Taxi & Private Hire Vehicle Standards on the Council's policies, procedures and conditions.

To advise Members of the recommendations of the working group, appointed at the meeting held in August 2020, following their consideration of the results of the consultation carried out in 2021.

To request that the revised policy document containing the working groups recommendations be subject to a further 4-week consultation.

Recommendation(s)

THAT Committee:

- 1) Note the results of the consultation carried out in 2021 and the recommendations of the working group at Appendices 1 & 2 that are now contained in the revised policy document at Appendix 3.**
- 2) Approve that the revised policy document at Appendix 3 be subject to a further 4-week consultation.**
- 3) Authorise the Director, in consultation with the Chair, to consider any responses to the consultation and should they consider that the responses require any proposed amendments to the Policy or Conditions, they be referred back to Committee for consideration.**
- 4) Authorise officers to implement the necessary changes to the taxi licensing policy, conditions and procedures to meet the recommendations of the Working Group if no responses are received to the consultation or, if the**

Director in consultation with the Chair does not consider any responses received require referral back to the Committee.

1 Background

- 1.1 At the meeting held on 4 August 2020 Members considered a report on the Department of Transport's Statutory Taxi & Private Hire Vehicle Standards ("the Standards"). The Standards were introduced to ensure that taxi and private hire licensing authorities use their licensing powers to protect children and vulnerable adults.
- 1.2 Whilst several recommendations set out in the Standards are already in place at the Council, the Standards needed detailed consideration by officers and Members to ensure that the Council's policies and practices have proper regard to the Standards. Following consideration of the report Members resolved to set up a Member/Officer working group to consider the impact of the new standards on the Council's taxi licensing process and policies.
- 1.3 Following meetings in November 2020 and February 2021 of the working group a further report was submitted to the Committee on 9 March 2021 and Members resolved to:
 - 1) *Note the recommendations of the working group.*
 - 2) *Approve that the matters contained at Appendix 1 & 2 of the report be issued for an 8 week public consultation.*
- 1.4 The matters contained in the Appendices to the report were sent out for the 8-week consultation. The consultation consisted of 26 separate questions which gave the current situation regarding each licensing subject and the proposed change that would bring the Council in line with the Standards recommendation in that area. Consultees were asked if they agreed or disagreed with the proposed change, and they were also asked for any comments. The consultation took place between 14th October 2021 until 9th December 2021. The consultation was published on the Council's website and the link to the consultation was also emailed to approximately 900 licence holders.
- 1.5 When the consultation ended the results were collated and analysed by officers who made comments and suggestions on the areas of work that would be affected which were then referred the Working Group for consideration. The Working Group met twice in October 2022. Following consideration of the level advised in the Department of Transport's Standards document, the results of the consultation and the discussions at the working group a set of proposals were drawn up by the Working Group and are attached to the report.

1.6 Although the initial consultation responses were considered by the Working Group, some time has passed since this exercise it is therefore fair and reasonable that the suggested recommendations are consulted on with the trade and public, so any further representations can be considered before any final changes are made.

1.7 **CCTV in licensed vehicles**

The Standards contained a section directing licensing authorities to carry out a consultation on whether CCTV in licensed vehicle should be mandatory or voluntary taking into account local circumstances, the positive and negatives effects of CCTV in vehicles and potential privacy issues. There was also some guidance on CCTV included in the Standards appendices. In the original consultation consultees were asked if they thought CCTV should be installed in vehicles. Eighty-five people responded with 52% saying yes and 48% saying no. The consultees were then asked if the installation of the CCTV should be mandatory and seventy-one people responded with 41% saying yes and 59% saying no. The next question was should the installation of CCTV be voluntary and sixty-seven people responded with 76% people saying yes and 24% people saying no.

As Members may be aware the Council runs its own CCTV section within Public Protection and is well versed in the pros and cons of being a data controller for CCTV images. It was felt by officers and Members that this subject needed more investigation due to the sensitive nature of recordings being made of passengers and drivers and the wider privacy issues and to balance this with public safety. The initial considerations did not support the need for the mandatory use of CCTV in the Borough's area. The complex nature of this subject was delaying the other issues raised by the Standards being brought before Members so the issue of CCTV in licensed vehicles will be brought to a future meeting if it is felt appropriate to pursue this issue.

1.8 **National Anti-Fraud Network (NAFN) NR3S**

The standards included a section on the mandatory use by licensing authorities of the NR3S register to record and search for driver refusals, suspensions and revocations. This was included in the original consultation and considered in a separate report at the meeting of the Environment and Licensing Committee on 9th January 2024 where Members were informed that the use of the register had become mandatory under the provisions of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022. The register is being accessed during the application process for new and renewal applications and information is being included on the register regarding any action the licensing authority takes regarding an applicant or driver. In accordance with the recommendations in the report officers have collated a list of current and historic drivers that merit inclusion in the register and those persons are to be consulted on regarding their inclusion.

1.9 Policy document

Since the consultation in 2021, and in line with the guidance in the Standards document, officers have worked on collating all the policies relating to taxi licensing into one document entitled 'Hackney Carriage and Private Hire Licensing Policy'. This document combines the previously named 'Council's Statement of Policy and Guidelines for the Licensing of Hackney Carriages, Private Hire Drivers and Private Hire Operators' together with the Council's policies on complaints, carriage of passengers in wheelchairs, the carriage of assistance animals, the vehicle testing manual and the taxi conditions for driver, vehicle and operator licensing. It is this document that now contains the recommendations of the Working Group and, if approved by Members, will be the subject of the 4-week consultation.

Appendix 1 shows general proposed changes across the taxi licensing process which would affect procedure, conditions, specifications and policy and Appendix 2 is specific to proposed amendments to the Part 1 Section 1 of the Hackney Carriage and Private Hire Licensing Policy.

In line with the recommendation in the Standards the policy will be reviewed at least every 5 years or when any changes to the policy or conditions of licence are proposed.

1.10 Fit and Proper

There is no legal definition of 'fit and proper' within the taxi legislation, however, it is the phrase that underpins the regime. The Standards encourage decision makers to ask themselves the following question when considering applications, or the change of circumstances of an existing driver, and this question and the following advice has been included in the revised policy:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of the day or night?

If, on the balance of probabilities, the answer to the question is no, the individual should not hold a licence.

Licensing authorities have to make difficult decisions, but the safeguarding of the public is paramount.

All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be given the benefit of doubt. If the committee or delegated officer is only 50/50 as to whether the applicant or licensee is fit and proper, they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

1.11 Standards guidance general matters

The Standards also contained guidance on several other administrative issues which do not require specific approval and have already been implemented or will be implemented going forward. These included:

- having one documents with all the taxi policies included
- reviewing the policy at least every 5 years
- working to maintain and improve the Council's information sharing relationship with the Police regarding taxi drivers and offences/convictions
- amending the declaration on the application form to state it is a criminal offence to give false information
- having a website link for complaints and compliments specifically about the taxi trade
- looking at adequately resourcing the taxi licensing function
- that Members and Officers keep a record of any licensing training they undertake
- to ensure that the Safeguarding training includes the issues raised in the Standards and;
- to publicise information to the public on how to stay safe when using taxis

2 Proposal

- 2.1 That members note the results of the consultation carried out in 2021 and the recommendations of the working group at Appendices 1 & 2 that are now contained in the revised policy document at Appendix 3.

That Members approve that the revised policy document at Appendix 3 be subject to a further 4-week consultation.

That any responses to the consultation be considered by the Director in consultation with the Chair and any proposed amendments to the Policy be referred to Committee for consideration.

That if no responses are received to the consultation or, if the Director in consultation with the Chair does not consider any responses received require referral back to the Committee, then officers be authorised to implement the necessary changes to the taxi licensing policy and procedures to meet the recommendations of the Working Group.

It is proposed that following the consultation period and any responses

considered the final policy will be implemented for all new driver, vehicle and operator licence applicants from 1st April 2025. All existing driver, vehicle and operator licence holders will need to meet the new policy standards by 31st October 2025 or at the renewal of their licence whichever date is sooner. Existing licence holders will be contacted with a link to the new policy once it has final approval.

3 Alternative Options

- 3.1 The Council could choose not to adopt the recommendations of the Working Group and therefore to not make any amendments to the Council's policies and procedures to reflect the changes as recommended by the Department of Transport Standards document. The Standards are clear that licensing authorities are expected to implement the recommendations in the Standards unless there is a compelling local reason not to, the Council may therefore be at risk of sanction.

4 Financial Implications

- 4.1 The additional workload created by the proposed changes can be accommodated within existing budgets and staffing levels, so there is no additional budget requirement needed.

5 Legal Implications

- 5.1 The proposed amended Policy is a comprehensive document which brings the Council's policy in line with current legislation and Statutory Guidance. Section 177(1) of the Policing and Crime Act 2017 states that '[t]he Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm'. The Secretary of State for Transport published the 'Statutory Taxi and Private Hire Vehicle Standards' in July 2020 which were updated in November 2022. Section 177(4) states that '[a]ny public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section.' Therefore, Licensing authorities are under a legal duty to have regard to the guidance.
- 5.2 An up-to-date policy which clearly states the way in which the Council will undertake its statutory duties assists with robust and consistent decision making thus ensuring fairness and transparency for both the trade and public. Decisions on individual licensing matters determined under the policy are subject to appeal to the magistrate's court applying the relevant law, the policy will be taken into consideration as part of any appeal hearing.

- 5.3 Although the initial consultation responses were considered by the Working Group, some time has passed since this exercise it is therefore fair and reasonable that the suggested recommendations are consulted on with the trade and public, so any further representations can be considered before any final changes are made.
- 5.4 Officers will require authorisation to take necessary steps to implement the recommendations of the working group without the need for further Committee approval.

6 Equalities Implications

- 6.1 An Equalities Impact Assessment is attached at Appendix 4.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 A Carbon Impact Assessment if attached at Appendix 5.

8 Appendices

- 8.1 Appendix 1 – Taxi Standard consultation responses and recommendations affecting the taxi licensing conditions and application process.

Appendix 2 – Taxi Standards consultation responses and recommendations affecting Part 1 Section 1 of the Hackney Carriage and Private Hire Licensing Policy

Appendix 3 – Revised Hackney Carriage and Private Hire Licensing Policy

Appendix 4 – Equalities Impact Assessment

Appendix 5 – Carbon Impact Assessment

9 Background papers

- 9.1 Statutory Taxi and Private Hire Vehicles Standards (updated 25 November 2022) - [Statutory taxi and private hire vehicle standards - GOV.UK](#)

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer