

<b><u>REPORT TITLE</u></b>	Draft Taxi Licensing Policy for Newcastle under Lyme
<b><u>Submitted by:</u></b>	Head of Business Improvements, Central Services and Partnerships
<b><u>Portfolio:</u></b>	Safer Communities
<b><u>Ward(s) affected:</u></b>	All

**Purpose of the Report**

To consider the attached draft Taxi Licensing Policy and the associated comments and recommendations submitted by representatives of the taxi and private hire trade in the borough.

To provide feedback and suggestions/comments on the draft Policy to enable the production of a further draft of the Policy for consideration at an additional meeting of this Committee in October prior to sending the draft Policy out for consultation on 1<sup>st</sup> November 2014.

**Recommendations**

- a) That the Committee notes the draft Policy, together with the associated recommendations and comments from representatives of the taxi and private hire trade in the borough, and makes any further recommendations it feels appropriate.
- b) That the Committee agrees to the timetable for the implementation of the Policy
- c) That dates for the proposed additional meetings of the Licensing Committee in October and February are agreed.
- d) That, in light of the above, the previous policy resolution relating to the age of Hackney Carriage vehicles, agreed by Council on 16<sup>th</sup> April 2014, is not implemented on 1<sup>st</sup> January 2015.

**Reasons**

The Borough Council currently does not have one all-encompassing private hire and hackney carriage licensing policy. By bringing all of the relevant existing policies (covering the granting of driver badges, and taxi/private hire and operator licences) together into one document, the process of applying for licences will be more accessible and open to both practitioners and others wishing to make an application.

**1. Background**

- 1.1 Successive Acts of Parliament have imposed requirements and restrictions upon Hackney Carriages, private hire vehicles, and their drivers and operators. These are given force through the licences which the Council is required to issue and regulate under the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, as amended.
- 1.2 The aims, standards, and procedures applied by the Borough Council in administering a licensing regime for Hackney Carriages, private hire vehicles, drivers, and operators, are continually reviewed, debated and agreed as Council policy.. At present, the Council has separate policies covering these different areas of activity. By bringing all of these policies

together into one document, the Council's policy when granting driver badges, taxi, private hire and operator licences will be accessible and open to both practitioners and those wishing to make an application.

- 1.3 In carrying out its regulatory functions, the Borough Council will have regard to this single Policy when making licensing decisions regarding taxis and private hire vehicles, drivers and operators. On the rare occasions when it is deemed necessary to depart substantially from this Policy, clear reasons will be given.
- 1.4 The agreed Policy will be subject to regular review, particularly when legislation and guidance from Central Government changes. In reviewing the Policy the Borough Council will seek views from representatives of the Hackney Carriage and private hire trade, together with other organisations involved in transport and licensing, as well as crime reduction professionals, and groups and individuals with involvement or interest in access and equality matters.

## **2. Work Carried Out to Date**

- 2.1 At the Full Borough Council meeting held on 16<sup>th</sup> April 2014, the Council passed a resolution that all Hackney Carriage vehicles that were not purpose built as taxis would cease to be licenced once they reached eight years old (this is in line with the current policy relating to private hire vehicles) (See 3.1 below)
- 2.2 Representatives of the local Hackney Carriage Association were not satisfied with this decision and, following further discussions with Borough Council officers, a Taxi and Private Hire Working Group was set up to provide a forum for the Borough Council and operators to discuss issues such as this.
- 2.3 The Working Group consists of representatives from the Hackney Carriage Association, private hire drivers and operators, the Borough Council's Democratic Services Manager; one of the Borough Council's Principal Solicitors (with a responsibility for Licensing matters); and the Borough Council's Licensing Officer. Other Borough Council officers and/or outside representatives are invited to attend as and when required and the Chair of the Public Protection Committee was in attendance at the first meeting of the Working Group.
- 2.4 The Working Group will:
  - Enable the Council to informally consult with members of the trade on any upcoming policy changes that are being considered prior to being submitted to this Committee;
  - Assist in keeping all key stakeholders up to date with legislative changes;
  - Allow representatives from other organisations such as the County Council's Highways Departments to meet with members of the trade; and
  - Make the licensing process more open and accessible to all parties.
- 2.5 A memorandum of understanding was signed by the previous Chair of this Committee agreeing to the setting up of the Working Group and it was also agreed that the draft Taxi Licensing Policy would form part of the Working Group's initial work plan.
- 2.6 An initial copy of the attached draft Policy was presented to the Working Group on 26<sup>th</sup> July 2014 and comments were requested from those in attendance. Responses to the draft Policy are attached to this report.

### **3. Issues**

3.1 The main areas of concern expressed by representatives of the trade are as follows:

- a) The vehicle age policy
- b) Tinted windows on vehicles

Both areas of concern are considered in more detail below.

#### **a) *Vehicle Age Policy***

At the Full Borough Council meeting held on 16<sup>th</sup> April 2014 the following was resolved:

***That, as from 1st January 2015, all Hackney Carriage vehicles that are saloon cars will cease to be relicensed when they are eight years of age.***

This resolution has since been amended and included in the draft policy as follows:

***Vehicles that are not purpose built, that is saloon vehicles, estate vehicles and hatchback vehicles will continue to be relicensed up to eight years of age subject to passing an annual test and the licences running concurrently.***

The following observations and suggestions have been made by representatives of the trade in relation to this section of the draft Policy (the full versions of these representations are attached as Appendices):

- The trade refer to the Law Commission Paper no.203 which was a consultation document considered by this Committee at the time of its publication. The representation from the trade quotes the age limits introduced by Transport for London which state that:

***'The limits are 15 years for taxis, and, for private hire vehicles. Five years for newly licenced vehicles and 10 years for renewals'***

It should be noted, however, that these age limits were introduced as part of the London Mayor's Air Quality Strategy rather than as part of a passenger safety policy.

The Law Commission have now published their initial response to the consultation and a draft bill has been submitted to Parliament. The recommendations suggest that the implementation of an age limit for private hire vehicles could be determined by the Secretary of State whilst those relating to Hackney Carriage vehicles could be set locally. No specific age of vehicle is suggested by the Law Commission. The full findings and suggestions relating to the age of vehicles are attached at Appendix A.

Officers have looked in detail at the correlation between the age of vehicles and the pass rates at the Council's Depot. The full findings are attached at Appendix B.

The statistics and graphs clearly show that there is a direct correlation between the age of a vehicle and its (in)ability to pass the Council taxi test. For private hire vehicles failure rates begin to outweigh the pass rates when the vehicles is seven years old and above whilst no Hackney Carriage vehicles are passing the test first time once they are over ten years old.

Following discussions at the Working Group, however, officers agreed that, in some exceptional circumstances, a vehicle may be suitable to be passed as fit to be a taxi when eight years old and above. James Button, in his book, 'Licensing Law and Practice', states:

***'The purpose of any age limit is to try and ensure that the licensed vehicles are safe, reliable and comfortable as possible. Any age policy would not in itself be arbitrary, because it must be a policy and the local authority must then consider any application that falls outside the age policy on its own individual merits.'***

Based on these findings, therefore, the following suggestion has been put forward by the trade:

*That the eight year limit is increased to ten years but that eight year old vehicles are subject to an additional VOSA MOT test six months after the Council depot test.*

The reasons and background relating to this suggestion are attached at Appendix C.

In addition, to the above, the following options were considered at the last meeting of the Working Group:

- Option A - that an enhanced taxi depot test is considered for vehicles over eight years old. The Borough Council would need to ensure that criteria for testing older vehicles were tight enough not to tempt all owners with vehicles over eight years old to get them tested which (as the data shows) would result in a multitude of failed tests and a negative impact on the Council's limited resources. If the Committee is interested in pursuing this option then further information can be prepared for the additional meeting in October.
- Option B – to introduce a system whereby that a pre-test by an independent practitioner would need to be passed prior to an operator presenting a vehicle that is over eight years old for testing at the Depot. An independent contractor could be another garage or an organisation such as the AA or RAC. The cost of this process would have to be met by the owner of the vehicle. Again, if the Committee is interested in pursuing this option then further information can be prepared for the additional meeting in October.
- Option C - that Depot staff could recommend a vehicle under exceptional circumstances and a test after eight years when it was seen at its seven year test.

Officers are already working to update the basic Depot test in order that the criteria can be included in the draft Policy for consultation. The proposal is that the test should be based upon the *Hackney Carriage and Private Hire Vehicles, National Inspection Standards* (Appendix D) with some slight amendments to take local circumstances into consideration. Copies of this document have been provided to members of the Working Group and feedback requested.

Consideration would also have to be given to any vehicle that was presented to the Depot after the eight year cut off and did not pass the 'exceptional' Council test. Care would have to be taken to ensure that there was no break in licensing history for the taxi plates and that, should the owner wish to transfer the plates to a younger vehicle,

he/she would not be penalised. This would mainly affect Hackney Carriage saloon type vehicles as any new plated Hackney Carriages must now be purpose built.

**b) Tinted Windows on Vehicles**

The Council's current Policy relating to tinted windows on Hackney Carriage and private hire vehicles states that all glass behind the 'B' post must allow at least 70% of light to be transmitted through it and that no vehicle shall be fitted with any form of additional film to darken or tint the glass on any part of the vehicle.

Officers have discussed this current policy with members of the Council Depot staff; Enforcement Team; and with members of the Taxi and Private Hire Working Group. It is now accepted that most cars purchased when they are one or two years old will have some form of tint on the rear windows and that this can be extremely costly to have removed. The previous recommendation from the Council's Enforcement Team was that a minimum reading of 35% would be acceptable from a public protection perspective. Officers would therefore like to propose that this new benchmark be adopted in the new draft Policy.

The representation regarding tinted windows from representatives of the trade is attached at Appendix E.

Following discussions at the Working Group it has also become apparent that mini bus windows pose an additional concern as many of these vehicles are manufactured with dark tinted windows. Additional work will need to be carried out by officers prior to a separate recommendation being made in relation to this, although the proposed Policy is that the rear passenger windows should allow a minimum of 35% transmission of light.

**4. Options Considered**

4.1 As detailed above – see paragraph 3.1.

**5. Proposal**

5.1 That the following timetable for the implementation of the first Taxi Licensing Policy for Newcastle under Lyme is adopted and that an invitation is extended to representatives of the taxi trade to attend the meetings set out below to put their recommendations forward and answer any questions that Members may have.

<b>Date</b>	<b>Meeting</b>	<b>Action</b>
22 <sup>nd</sup> September 2014	Public Protection	First discussion of draft Policy
October 2014 – TBC	Public Protection	Finalise draft Policy following recommendations of the Committee at the meeting on 22 <sup>nd</sup> September 2014.
1 <sup>st</sup> November 2014	Start Consultation	Full Consultation
31 <sup>st</sup> January 2015	End Consultation	End Consultation

February 2015 – TBC	Public Protection	Consider consultation results and agree Policy to be submitted to Full Council
15 <sup>th</sup> March 2015	Full Council	Submit Policy to Full Council for final approval.

**6. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

6.1 In formulating and proposing this Policy to Members, officers have adopted as their overriding concern the safety of the public.

- In terms of the Borough Council’s corporate priorities, the draft Policy relates to the following:
  - Creating a clean, safe and sustainable Borough
  - Creating a Borough of opportunity
  - Creating a healthy and active community
  - Becoming a co-operative council which delivers high quality, community-driven services.

**7. Legal and Statutory Implications**

7.1 When considering any application for a Private Hire Vehicle Licence, the Borough Council, in accordance with Section 48 (1) (a) (i) (iii) (iv) and (v) of the Local Government (Miscellaneous Provisions) Act 1976, shall not grant such a licence unless they are satisfied that the vehicle in question is suitable in type, size and design for use as a private hire vehicle; is in a suitable mechanical condition; and is safe and comfortable.

7.2 As per Section 47 of the above Act, the Borough Council may attach to the grant of a Hackney Carriage licence such conditions as it may consider reasonably necessary. The range of conditions is wide and can therefore encompass safety, comfort and design.

7.3 The Borough Council may adopt a policy but should be clear that this is a policy which should be flexible in terms of its implementation and, therefore, should be applied to each case on its own merits.

**8. Equality Impact Assessment**

8.1 The purpose of age limits, as applied to Hackney Carriages, it to try and ensure that the licensed vehicles are safe, reliable and comfortable.

8.2 Any vehicle age policy, therefore, as applied in this area of Council business, is not arbitrary, but is a policy and it is for the Borough Council to consider any application which falls outside its own vehicle age policy on its own merits.

**9. Financial and Resource Implications**

9.1 An unreasonable decision may lead to awards of costs in the magistrates’ court and therefore use the limited resources available to the Borough Council. A clear and reasonable policy assists in delivering efficiency.

10. **Major Risks**

- 10. Public safety should not be compromised under any circumstances, and a robust Licensing Policy assists in securing public safety.
- 10.2 If public safety is compromised, then there is a risk of reputational and financial damage to the Borough Council as well as possible harm to the public.
- 10.3 In addition, any unreasonable refusals for the grant of a licence may also lead to reputational and financial risks to the Borough Council.

11. **List of Appendices**

- Appendix A – Law Commission proposals on Local Taxi Standards
- Appendix B – Statistics relating to the age of vehicles and the pass rate at the depot
- Appendix C - Representations from the Taxi Trade on the Draft Taxi Licensing Policy
- Appendix D - Hackney Carriage and Private Hire Vehicles, National Inspection Standards
- Appendix E - Tinted Windows Representation

12. **Background Papers**

Reforming the Law of Taxi and Private Hire Services – A Consultation Paper No. 203  
 Taxi and Private Hire Services – The Law Commission Paper No 347

13. **Management Sign-Off**

*Each of the designated boxes need to be signed off and dated before going to Executive Director/Corporate Service Manager for sign off.*

	Signed	Dated
<b>Financial Implications Discussed and Agreed</b> <i>Lead Officer – Dave Roberts</i>		
<b>Legal Implications Discussed and Agreed</b> <i>Lead Officer – Mark Bailey</i>		
<b>Report Agreed by:</b> <b>Executive Director/ Head of Service</b>		