

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

Purpose

To request that the Committee consider the responses received in relation to the Draft Taxi Licensing Policy for Newcastle under Lyme and that a final agreed Taxi Licensing Policy be brought into practice from 1st March 2015.

Recommendation

That the Committee:

- a) **Consider the responses received to the consultation**
- b) **Consider the options detailed below in relation to the age policy of private hire and hackney carriage vehicles and agree which option to include in the final Taxi Licensing Policy.**
- c) **That the final Taxi Licensing Policy for Newcastle under Lyme be implemented from 1st March 2015.**
- d) **That a report be brought to a future meeting of the Committee by the Council's Partnerships Manager in relation to concerns raised in the consultation responses regarding child safety.**
- e) **That the Policy be reviewed and consulted on again in three years.**

1. **Background**

- 1.1 Members will recall that at the meeting held on the 20th October 2014, the draft Taxi Licensing Policy for Newcastle under Lyme was agreed to be sent out for consultation for three months from 1st November 2014.
- 1.2 The following responses were received and are attached as an appendix to this report:
 - a) Response from Brighter Futures requesting that Drivers complete adult and child protection training.
 - b) Response from Community Safety and the Partnerships Manager relating to issues around child sexual exploitation and safeguarding.
 - c) Response from Chief Inspector Clare Riley relating to safeguarding.

- d) Response from the Newcastle Taxi Association in relation to the testing schedule for vehicles over 8 years of age.
- e) Response from the Council's enforcement team regarding the identification of taxis and signage.
- f) Response from Mr G Johnson regarding the proposed exceptional age conditions procedure.

1.3 The draft policy was widely publicised with copies being sent to all elected members, all partner organisations including disability groups (contacts provided by the Partnerships Manager), all neighbouring authorities, taxi associations, private hire operators and publicity on the Council's own website.

2. Options

Having considered the responses to the consultation your officers would recommend that the Committee consider the below two options in relation to the age policy. The original proposal regarding exceptional circumstances has been amended slightly to take account of the response from the Newcastle Taxi Association:

OPTION 1 – Include the below exceptional age condition in the final policy:

1. The applicant would, 30 days prior to expiry of their licence, inform the Council of their intention to apply for their vehicles "exceptional condition" status. This application would be accompanied by a Motor Vehicle inspection report from either the AA (comprehensive check) or RAC (essentials plus check) this check would give an indication whether or not the vehicle could be deemed to be in "exceptional condition" (i.e. no failures or advisory notices). These checks and the elements required can be seen at Appendix A
2. On receipt of this notification check, a Council inspection would be allocated (subject to existing requirements such as providing relevant documentation and fee).
3. Subject to passing the Council's inspection at its first time, a licence would be granted for that vehicle for a period of six months after which **a second council depot test would be required** to enable the licence to be extended to its full 12 month period.

In this matter officers take the view that if a vehicle is to be considered as in "exceptional condition" it should pass **both** the Council's inspections at its first attempt. Not to pass would indicate the vehicle is not in "exceptional condition" **and the vehicle will have its plates removed.**

There may be other influencing factors that may assist the Council in its decision making and which could also be added to the draft Policy:

- a) The vehicle will have Uniform paintwork that is lustrous and scratch free.
- b) Be free of visible rust.

- c) Have an interior that is clean and upholstery which is supportive and free of stains and free of splits and wear and tear.
- d) Be free of any unrepaired damage.
- e) Repairs that have been made will have been carried out by qualified persons and will be to the highest standard.
- f) Be free of any major mechanical faults or defects.
- g) Will have a record of being serviced at regular intervals either by a main agent or other reputable garage. Ideally this servicing will be recorded in the vehicles original service booklet.

OPTION 2 – Enforce the existing age policy in relation to private hire and hackney carriage vehicles.

Hackney Carriage Vehicles

Purpose built Hackney Carriages and those vehicles which have been converted to incorporate the standards laid down by the Public Carriage Office will continue to be relicensed despite their age subject to passing an annual test and the licences running concurrently.

The Council will use the date of the first registration shown on the vehicle's log book to determine the age of that vehicle.

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

Private Hire Vehicles

When a vehicle has been licensed as a Private Hire Vehicle it is capable of being re-licensed annually until the vehicle is eight years old, providing that the licences run concurrently.

The Council will use the date of first registration shown on the vehicle's log book to determine the age of the vehicle. Where a licence is issued and the expiry date is after the eight year rule the licence will remain in place until its expiry.

In respect of mini buses, these vehicles should be less than five years of age when first tested and can continue to be licensed for as long as the vehicle continues to pass the Council's annual test, provided that the applications to renew the licence run concurrently to the expiring licence.

2. Issues

2.1 It is noticeable that a number of responses to the consultation have been in relation to child protection and safeguarding concerns. Work is currently being undertaken by officers in partnership with the Staffordshire Safeguarding Children's Board and Staffordshire Police in relation to this and a detailed report will be brought to a future meeting to enable the Committee to consider areas such as training and education for licence holders prior to consulting with all relevant persons.

2.2 The Council have a duty to protect the public and to ensure that before granting a licence for a Hackney Carriage or Private Hire Vehicle that it is “safe and fit for purpose”.

2.3 While there is no legal definition in this respect for “fit for purpose” it could be rightly asked that would those people responsible for granting the licence be happy for their family to be carried in that vehicle.

2.4 It is important and relevant to note that the AA will only provide a BASIC CHECK for vehicles up to 8 years of age any vehicles older than 8 years would only be given what is termed a COMPREHENSIVE INSPECTION, and that the RAC provide an ESSENTIALS check for vehicles that are up to 10 years of age and have done less than 120,000 miles, if the vehicle is older or has done more miles it would need the ESSENTIALS PLUS check. Both organisations have a sliding scale of charges, these charges are highlighted on Appendix A.

3. **Options**

The Committee can:-

- 1) Adopt the method to establish “exceptional conditions” – **Option 1**
- 2) Enforce the existing age policy – **Option 2**

4. **Recommendations**

As listed above

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

5.1 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.

6. **Legal and Statutory Implications**

6.1 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.

6.2 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.

6.3 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.

7. **Equality Impact Assessment**

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

7.2 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.

8. **Financial and Resource Implications**

8.1 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.

9. **Major Risks**

9.1. Public safety should not be compromised under any circumstances, and a robust Licensing Policy assists in securing public safety.

9.2 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.

9.3 In addition, any unreasonable refusals for the grant of a licence may also lead to reputational and financial risks to the Borough Council.

10. **List of Appendices**

- Appendix A – Draft Taxi Licensing Policy for Newcastle under Lyme
- Appendix B – AA and RAC Check lists
- Appendix C - Depot Testing Schedule
- Appendix D - Responses received to the consultation

11. **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