

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 Revised Taxi Licensing Policy for Newcastle under Lyme and that the revised Policy be implemented from 1st May 2015.

Recommendation

- a) That the Committee Consider the responses received to the consultation
- b) That the final Taxi Licensing Policy for Newcastle under Lyme be implemented from 1st May 2015.
- c) That any Hackney Carriage and Private Hire licences issued to vehicles over 8 years of age will have until 31st June 2015 to meet any “exceptional condition” standards that may be contained in the final Taxi Licensing Policy.
- d) That where a vehicle fails to meet the ‘exceptional circumstances’ conditions, the licence will be deemed expired and a refund made as set out in the report.

1. **Background**

1.1 As agreed at the previous meeting of this Committee the Draft Taxi Licensing Policy for Newcastle under Lyme has now been out for a further 4 week consultation period. This additional consultation ended on Friday 17th April 2015.

The following responses have now been received:

- 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.

- g) 61 responses from drivers (as all of the responses are similar just one paper copy is attached for your information but the rest will be published on the internet).
- h) Response from Carl Phillips

2. Options

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

1. Once a vehicle has reached 8 years of age it will be required to undertake an exceptional conditions test at the Council's Knutton Lane Depot alongside the normal taxi vehicle inspection test. This will allow the vehicle to be licenced for a further 6 months
2. Undergo a further 6 monthly vehicle inspection which will allow the vehicle to continue to be licenced for the rest of the 12 month period.
3. If the Operator wishes to challenge a Council decision in relation to the Exceptional test then an independent organisation can mediate (AA or RAC).
4. It is recommended that the fee for the exceptional conditions test be £65.

It is also recommended that the necessity to pass both the exceptional test and the Council test the first time be removed and that Council Officers be given discretion regarding this element of the test should the vehicle only fail on a very minor point.

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**

Representations have been received and are attached to this agenda.

3. **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.

a) Move to adopt the Taxi Licensing Policy with either:

- i. Option 1 included (exceptional age policy) or
- ii. Option 2; enforce the existing age policy in relation to private hire and hackney carriage vehicles

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

4.1 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 Any vehicles over 8 years of age licenced that fail to meet any 'exceptional circumstances' criteria in the final Taxi Licensing Policy by the deadline of 31st June 2015, will be refunded the outstanding amount of the original taxi fee.

It must be noted that any refund will not be equivalent to 50% of the original fee as the majority of the licence fee covers up front administration costs and the Council depot test and these will not be included in any refund. The refund will be calculated taking into account the processes required to produce the licence, it is anticipated that the refund will be in the region of up to 20% of the original fee.

Legislation states that a district council may remit the whole or part of any fee chargeable for the grant of a licence under section 48 or 55 of this Act (The Local Government (Miscellaneous Provisions) Act 1976) in any case in which they think it appropriate to do so

8.2 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

8.3 The additional cost for an exceptional vehicle test at the Council's Knutton Lane Depot will be £65.

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**

- a) Draft Taxi Licensing Policy for Newcastle under Lyme Borough Council
- b) Consultation Responses

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
Agenda for Public Protection Committee on 20th October 2014.