

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

PUBLIC PROTECTION COMMITTEE

Date 11th June 2019

1. Taxi and Private Hire Licensing Policy 2019-2022

Submitted by: **Head of Environmental Health Services & Licensing Administration Team Manager**

Portfolio: **Finance & Resources**

Ward(s) affected: **All**

Purpose of the Report

To review the consultations received in respect of the draft taxi policy and to discuss and agree any amendments to the proposed new Taxi and Private Hire Licensing Policy following the consultation period.

Recommendations

- 1. To note the contents of the report;**
- 2. To take account of the content of each response received during the consultation period;**
- 3. To decide from the options detailed at Appendix 1 what provisions will be included in the final policy;**
- 4. To receive at a future meeting the final policy document for approval and consideration of implementation timescales.**

1. Background

- 1.1 The Council's current Taxi and Private Hire Licensing Policy was implemented on 1st May 2015. A review of this policy began in August 2017 and a draft policy was put to Members on 18th September 2018. At the Committee meeting Members approved that the proposed document should be sent out for a 12 week consultation period.
- 1.2 The policy document proposed a wide scale reform of the current policy. The review determined that there were a number of areas that required updating, amending, removing or including to ensure that the Council has a policy that was fit for purpose in respect of the legislative framework and administration of the service.
- 1.3 The proposals were considered appropriate to ensure the protection of the public by improving the standard of vehicles, operators and drivers and to assist and/or simplify the administrative process.
- 1.4 The draft policy was sent out for consultation at the start of October 2018 for a 12 week period due to finish on 21st December 2018. A letter was sent to every driver, vehicle proprietor and operator licensed by the Council. The letter detailed the closing date for representations, where the document could be viewed and the methods of submitting representations in writing. The draft policy was also emailed to the other bodies listed within the document as consultees.

- 1.5 The draft policy was made available electronically on the Council website alongside an online form to submit comments, and physical copies were available at Castle House and Kidsgrove Town Hall.
- 1.6 The document was drafted in such a way that it read as if it was the finalised document. E.g. the section detailing the organisations and persons that were to be consulted with was written in the past tense, as if the consultation had been carried out. This led to some confusion with various consultees stating that they had not been consulted with. It was always the intention of the Council to meet with representatives of the trade during the consultation period and this has taken place.

2. **Issues**

The Trade Group and Consultation Meetings:

- 2.1 On 11th October 2018 the Council were approached by a member of the Hackney Carriage Trade Association Committee (HCTA) to set up a meeting between Council Officers the HCTA and Private Hire Operators. Officers requested details of who would be attending the meeting, and which sections of the trade would be represented. On 5th November a member of the HCTA confirmed that the people attending the meeting would be made up of representatives from the below organisations:
 - Hackney Carriage Trade Association Committee;
 - Sids Private Hire
 - Roseville Private Hire
 - Magnum Taxis
 - Intercity Private Hire
 - Lucky 7 Private Hire Taxis
 - A 1 Embassy Taxis Ltd.
 - City Cabs
 - ABC Supreme Private Hire
 - Autocab Private Hire
 - City Centre Private Hire
 - Kidsgrove Taxis
- 2.2 On 12th November a letter was received from the HCTA on behalf of the representatives listed above (“the trade group”) with details of sections of the policy they wished to discuss at the meeting. The trade group proposed a meeting date of 19th November which unfortunately Officers could not accommodate. Officers suggested 20th November which was accepted but then Officers had to rearrange due to Officer non-availability. Subsequently a meeting was arranged to take place on 27th November 2018.
- 2.3 At the meeting on 27th November the trade group had produced a written representation against sections of the draft policy. A representative of the trade group read the representation which detailed a number of concerns about the proposals, questioned the reasons for their inclusion and offered a number of alternatives that could be considered. These matters were discussed verbally at the meeting. A copy is attached at Appendix 2. At the meeting the trade group verbally requested that the consultation period be extended stating that they had not had enough time to consider the full proposals. The request was put to the Public Protection Committee on 11th December and the Committee determined to extend the period until 14th February 2019.
- 2.4 Following the meeting Officers produced a written response which was sent to the trade group on 14th December, along with details of the next meeting to be held on 22nd January 2019. A copy is attached at Appendix 2.

- 2.5 On 18th December Officers wrote to the Private Hire Operators (“PHO”) that were not part of the trade group inviting them to a meeting due to be held on 23rd January. Only one licensed PHO attended the meeting. They offered two points for consideration; firstly that they had concerns on having operator door signs displayed on a vehicle when it was working outside of the Borough as it would indicate that vehicle was not local and may be targeted; and secondly that there were no fully electric vehicles available that were suitable for the type of work they carried out. There would need to be a larger electric vehicle available on the market to be considered viable.
- 2.6 The trade group had made written comments on the earlier Officer response and at the meeting on 22nd January their representative explained the matters they wished to raise. During the meeting the trade group made a number of counter proposals to the draft policy document which were recorded by Officers. The trade group also requested that the consultation period be extended again, and that representatives be allowed to speak at the Committee meeting where the policy will be determined. On 26th January a copy of the comments were submitted to the Council and a copy is attached at Appendix 2. On 8th February the Chair of Public Protection Committee determined that the consultation period would be extended until 14th March 2019 with the primary reason that it would allow the trade group to submit a final written representation, as they would not be permitted to speak at the meeting as requested.
- 2.7 Officers responded to the trade group’s comments on 20th February including a list of the verbal counter proposals given at the previous meeting, along with details of the next meeting scheduled to be held on 5th March 2019. A copy of the response is attached at Appendix 2.
- 2.8 At the meeting on 5th March the trade group made a number of requests. Following a meeting between Officers, the Chair of the Public Protection Committee and the relevant portfolio holder a response was sent to the group on 11th March. A summary of requests and responses are outlined below. The full response can be found at Appendix 3:
- That representatives of the trade meet with the Officers and Members of the Public Protection Committee to discuss the policy;
- That it is not appropriate, it is the Officer’s role to carry out consultation.
 - To put the Council policy consultation and implementation on hold until the Department for Transport (DfT) Statutory Guidance has been finalised, and to extend the current policy until that time;
- The policy will be a live document and can be amended at any time.
 - To extend the current consultation to allow for a 12 month period in which the trade can consider the proposals in full
- The consultation period was extended twice to a total of approx. 5 months. This was considered to be sufficient to consider the draft policy;
 - To allow a representative/s of the trade to speak at the Committee meeting
- This had been considered previously and the request was declined.
- 2.9 The written representations from the trade group are all attached as part of Appendix 2. Both the written and verbal comments from the group indicate that they have serious concerns about a number of the proposals. It is accepted and agreed that the safety of the public is of the utmost importance however, they are of the opinion that generally speaking the proposals have gone too far and are unnecessary, are not justified and not proportionate, and argue that the impact of implementing the draft policy as written would significantly impact upon the private hire and hackney carriage sector in the Borough and surrounding areas. A major concern of the group was the financial implications that would be put upon

drivers, vehicle proprietors and operators alike if the proposals for younger vehicles, electric vehicles, more frequent medical certificates, additional training/qualifications go ahead. Another concern was the impact that having to reach a reasonable standard of spoken and written English, and having to undergo a new knowledge test would have on existing drivers. They have argued that neither requirement is necessary and should not be included at all. At the meeting of 22nd January the trade group put forward a number of Counter Proposals to Officers. When the group have offered counter proposals they have been included in the options available to Members to choose between when determining the various parts of the draft policy. They are outlined in Appendix 1 of the report.

Consultation Responses:

2.10 On 14th March 2019 the consultation period ended. During the consultation the Council received a total of 424 responses:

- The written comments submitted by the trade group (outlined above) as attached at Appendix 1 (1 representation);
- A letter signed by 389 people stating that they support the actions of the trade group (389 representations);
- Seven letters/emails from licensed drivers and/or PHOs (7 representations);
- Four letters/emails from other organisations/interested parties (4 representations); and
- Twenty three responses made via the online survey (23 representations).

2.11 The Council received 390 copies of the same letter signed by various individuals, endorsing the representations being made by the trade group:

- 349 drivers licensed by the Council;
- 33 drivers licensed by Stoke City Council;
- 7 PHO or base staff; and
- 1 individual with unknown capacity/job role.

A copy of the letter and spreadsheet with details of those who submitted it is attached at Appendix 4.

2.12 The 7 letters/emails received from licensed drivers and/or PHOs are attached at Appendix 5.

Generally, the representations were in objection to specific sections of the draft policy. Several of the representations made suggestions that the Council could include, or replace within the policy document, and these are detailed in Appendix 1.

2.13 The 4 letters/emails received from other organisations/interested parties are attached at Appendix 6. Correspondence was received from:

- Guide Dogs for the Blind;
- Staffordshire County Council;
- Chair of Crewe Hackney Carriage Association; and
- Lay person with interest in Electric Vehicles.

The representation from Chair of Crewe Hackney Carriage Association made suggestions for the Council knowledge test and that of the lay person outlined why, in his opinion, a condition that certain licensed vehicles should be fully electric was not proportionate or suitable. The representations from Guide Dogs for the Blind and Staffordshire County

Council were supportive but also made suggestions that the Council could include, or replace within the policy document, and these are detailed in Appendix 1.

- 2.14 For the online survey there were a total of twenty seven (27) representations however one was the Guide Dogs for the Blind, who also submitted their representation via email, and four of the responses were from the same driver with the same comments. As such Officers have concluded that there were a total of twenty three (23) online responses:
- Four responses from individuals identifying themselves as Private Hire or Hackney Carriage Vehicle Proprietors;
 - Six responses from individuals identifying themselves as licensed drivers (including one of the responses from the driver who submitted the same response four times);
 - Three responses from individuals identifying themselves as Private Hire Operators; and
 - Ten responses from members of the public.

A copy of the data submitted and Council analysis based on the full 27 responses is attached as Appendix 7. Generally, the representations made by current licence holders were in objection to specific sections of the draft policy, however those received from members of the public were supportive. Several of the comments made suggestions that the Council could include, or replace within the policy document, and they are detailed in Appendix 1.

Department for Transport (DfT) Statutory Guidance Consultation:

- 2.15 On 12th February the DfT published their proposed statutory guidance that was to be consulted upon nationally for 10 weeks, ending on 22nd April 2019, which overlapped with the end date for the Council Policy consultation. This was reported to Members at the Public Protection Committee on 19th March 2019.
- 2.16 This is the first time that there will ever be Statutory Guidance for Licensing Authorities with regards to Taxi Licensing. Prior to this the DfT last updated their 'Best Practice Guidance' in 2010. The proposed guidance document is comprehensive in the areas that it covers, explains that *'taxis and PHVs are a high risk environment'*, and that DfT *'expects these recommendations to be implemented unless there is compelling local reason not to'*.
- 2.17 Many of the areas contained within the draft DfT guidance, such as language proficiency for drivers, having a convictions policy, and carrying out criminal records checks on those applying to be PHO's, are covered in the draft Council Policy which suggests that the Officers' proposals are supported by the relevant Central Government department. Whilst the end date for the DfT Guidance has now passed there has been no indication as to when the finished document will be implemented. The trade group had proposed that the Council Policy be put on hold until the Guidance has been finalised but the Chair of the Committee and Portfolio Holder agreed that the Policy, in whatever form it takes, will be a 'live' document which is capable of being reviewed and amended when there are changes to Guidance and/or legislation.

Trade Industrial Action:

- 2.18 Following the end of the consultation period and the response from members, as outlined in section 2.9 of the report, the members of the trade group organised 'strike' action that took place on the evening of Friday 15th March. The Council were first made aware of the action by the local media and a statement was issued. Staffordshire Police had not been informed and were unaware until the action had started. The Police telephoned the Council's "Director

on call” as they had concerns over the potential for public order in the town centre. As a result the Director spoke to the Portfolio Holder. The Police spoke with a representative of the trade and agreed to an informal meeting on 16th March, which was attended by 12 members of the trade group.

2.19 The information from director on call and police resulted in the trade group calling off similar action that was due to take place on 16th March on the provision that the Police would contact the Council to:

- Highlight the concerns that the trade had raised;
- Request that the Public Protection Committee on 19th March be postponed to allow further consultation; and
- Request that the Police were included in these talks.

2.20 A meeting was arranged to take place on Tuesday 19th March. Present were Officers of the Council, Chair of the Public Protection Committee, Portfolio Holder responsible for taxi licensing and 12 members of the trade group. Representatives of the trade outlined that they hadn't had long enough to respond to the proposals, that they didn't feel as though they had been listened to, their concerns at not being able to speak at the Committee meeting and that they were concerned about the final contents of the report not reflecting the representations. Chair explained that the meeting due to be held later that evening wasn't due to determine anything about the Taxi Policy as the Council needed time to review and respond to the representations received, and that the consultation period had only closed 5 days ago. Members agreed that before the report was finalised that they would meet with the trade group once more to outline the options the Officers intended on putting before the Committee.

2.21 A Sergeant from Staffordshire Police attended part of the meeting to speak to the trade group. Whilst the meeting was taking place a 'slow drive' protest was taking place on the ring road that had been organised by the group. The Sgt asked why it was taking place when the Council had agreed to meet with them as they had requested. They agreed to call off the protest.

2.22 The Chair of the Public Protection Committee, the Portfolio Holder responsible for taxi licensing, and two Officers met with nine members of the trade group on 14th May to inform them of the recommendations that Officers were intending on putting to the to the Committee, alongside the other options that would be available, that included all of the counter proposals made by the group during the consultation period. The group reiterated their concerns, as outlined above, and that they still preferred the options that they had put forward as counter proposals rather than what the Officers were intending on recommending.

Verbal Statements from the Trade:

2.23 At the meeting on 14th May the Members agreed that at the Committee meeting they would allow one representative from the Private Hire sector and one representative from the Hackney Carriage sector to give verbal representations to the Committee, and that each representative would be allowed no more than 10 minutes to give their statement.

Policy Documents

2.24 The Council's current 2015-2018 Taxi and Private Hire Licensing Policy is attached at Appendix 10. The draft policy document that was agreed for consultation is attached at Appendix 11.

3. **Options Considered**

3.1 That Members consider the options outlined below and at Appendix 1. Each option has:

- A brief title;
- Which sections of the draft policy it relates to;
- The Options to be considered:
 - 1) = The proposal contained in the draft policy;
 - 2) = Any Counter Proposals submitted during the consultation period;
 - 3) = Any alternative options considered viable following review of the consultation responses;
 - 4) = What the current 2015-18 policy says;
- An Officer recommendation;
- The reason for the recommendation. **(RECOMMENDED)**.

3.2 That Members agree to receive at a future meeting the final policy document for approval and consideration of implementation timescales. This is to allow Officers time to draft the final policy document, and put forward a suitable time frame for implementation. **(RECOMMENDED)**.

4. **Proposal**

4.1 That Members discuss and determine which of the options listed above and at Appendix 1 should form part of the new Council Tax and Private Hire Licensing Policy.

4.2 That Members agree to receive at a future meeting the final policy document for approval and consideration of implementation timescales.

5. **Reasons for Preferred Solution**

5.1 To create a robust and proportionate taxi licensing policy that is fit for purpose and to ensure that those licensed by the Local Authority as Drivers, Vehicle Proprietors and Operators meet the highest possible standards ensuring Public Safety at times.

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

6.1 *The Council's corporate priorities are:*

- Local services that work for local people
- Growing our people and places
- A healthy, active and safe borough
- A town centre for all

7. **Legal and Statutory Implications**

7.1 There are no statutory requirements on the Council to have a Taxi Licensing Policy, however once in place it can be used as the basis of administrative decisions that we are required to take under the relevant legislation.

7.2 That decisions made by the Committee when formulating the final policy document may be subject to Judicial Review.

8. **Equality Impact Assessment**

- 8.1 Not applicable
- 9. **Financial and Resource Implications**
 - 9.1 The function is set on a cost recovery basis where possible, with the cost of the licenses set to recover the Councils costs.
 - 9.2 Individual elements of the applications and renewals are new functions, such as the introduction of an in-house knowledge test, which will incur additional staff resource to support, however the cost of which will be covered by the fee charged.
- 10. **Major Risks**
 - 10.1 Not applicable
- 11. **Sustainability and Climate Change Implications**
 - 11.1 Not applicable
- 12. **Key Decision Information**
 - 12.1 Not applicable
- 13. **Earlier Cabinet/Committee Resolutions**
 - 13.1 Licensing & Public Protection Committee – 18th September 2018
Licensing & Public Protection Committee – 11th December 2018
- 14. **List of Appendices**
 - 14.1 Appendix 1 – Proposals and recommendations document
Appendix 2 – Trade Group and Officer Correspondence
Appendix 3 – Officer email to Trade Group following requests to Councillors
Appendix 4 – Letters supporting Trade Group
Appendix 5 – Consultation responses from Drivers/Operators
Appendix 6 – Consultation responses from Outside bodies/persons
Appendix 7 – Consultation responses received via online survey
Appendix 8 – CEFR guidance sheet
Appendix 9 – Council’s current Guidelines for Convictions
Appendix 10 – Councils’ current Taxi Licensing Policy 2015-2018
Appendix 11 – Council’s Draft Taxi & Private Hire Licensing Policy v7
- 15. **Background Papers**
 - 15.1 Draft Taxi & Private Hire Licensing Policy v7