

Officer response to the trade group's comments

Following the second meeting held on 22nd January 2019 the Council received the trade group's comments on Saturday 26th January. A number of questions, comments and proposals were made. The questions have been answered; the comments have been replied to where necessary and the proposals are listed at the end of this document. The proposals will be taken forward as part of the options available to Members when the final report goes before the Public Protection Committee, on 30th April 2019.

Please note that all comments below have been made by Officers and not the Public Protection Committee. Officer comments and replies are in **red text**.

This document should be read alongside the original response document that contains the trade group's comments (attached). The order of the replies follows the order in which they were raised in the attached document.

Officers will provide options and make recommendations to the Committee having considered all of the representations received but ultimately it will be the Committee that determine the final content of the new Council Taxi Licensing Policy.

The overriding principle of regulating taxi drivers, vehicles and operators is to ensure public safety. The Council have used this starting point for every part of the policy draft.

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Questions asked by trade group:

- Will the trade be able to see the final options and recommendations before the final report is sent to Committee? **The report will be a public document and be published with all supporting documents as early as possible but in any case at least 5 working days before the date of the Committee.**
- Will the trade be able to make comment on the report? **The trade will be able to respond to this document, including to clarify the proposals that have been raised. Once the end consultation date has passed no further representations will be accepted.**
- Will there be a charge for the new knowledge test? **Yes, the current proposal is £45.00**

Requests made by the trade group:

- That the trade are able to present their case at the Committee hearing. **It is not standard procedure to allow third parties to speak at the Committee meeting and the Chair has confirmed that no-one from the trade will be permitted to speak at the meeting. In the interests of fairness, and being open and transparent the only representations that will be considered by the Committee are those that have been submitted in writing prior to the end of consultation.**
- To further extend the consultation period. **Due to this request, and the Chair's decision to not allow speakers at the meeting the consultation period has been extended for a further four weeks. The new end date for consultation is 14th March 2019. The trade group and all interested parties are advised that they must submit written representations for their concerns to be considered by the Committee.**
- That the trade can have a month to comment on the final proposals. **The trade can comment on this document and submit written representations. They will not be able to comment on the final report once it has been published.**

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Comments made by trade:

- In respect of medical examinations. What the Council have said is incorrect in respect of DVLA guidelines for Group II medicals. **Officers did not mention the DVLA guidelines at this point. Reference was made to the Department for Transport guidelines that medicals should be every 3 years.**
- If someone has been through the application process/driving for many years then their level of English has already been proven satisfactory. **It remains that at application appointments and appearances at Public Protection Sub-Committee there are still a number of drivers who can not answer simple questions such as being asked what their address is, or how long they have been driving, and some can't write their name or telephone number. Officers do not accept that these individuals have a satisfactory level of English to carry out the role of a professional driver. Officers may make further enquiries as to how these individuals have managed to pass other application criteria.**

Questions

- Will there be a charge for the disability awareness training? **Yes, this will depend on the course providers costs once an approved provider has been found.**
- Will there be a charge for the extra safeguarding training? **Yes, the fee is included in the Council's fees and charges**
- What qualifications do officers and Members have to assess the level of English of any individual? **It is subjective but when individuals can not answer simple questions or even write their name then they are the applicants/drivers that concern the officers and Members. To avoid the subjectivity the Council would have to apply the test to all applicants.**
- If there are only a small number of drivers where officers/Members have concerns then why are you implementing the requirement across the board? If there is a problem why not use it as a solution when a problem is identified? **It needs to feature in the Policy to allow action to be taken when necessary.**

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- If there have not been any complaints then why would Officers be assessing the level of spoken or written English? **To ascertain whether applicants can speak/write to a satisfactory standard for the reasons outlined in the last Officer response.**

Comments

- There is a requirement on drivers to notify Council of changes to their medical status. If the driver does not tell them then the Council can take action. **Yes but there are drivers who do not inform the Council when they have an issue that means they don't meet the Group 2 standards and can currently be driving for upto 6 years before the Council become aware. In addition there may be some drivers who are unaware of underlying medical issues and the only way that they would come to know about it is by having a medical examination.**
- Officers and Members do not have ability to assess any person's level of English and therefore can not make a driver attend an ESOL or equivalent course. It is unnecessary and unjustified. **Officers disagree that it is unnecessary and unjustified. Whilst the matter is slightly subjective Officers feel that it is necessary that licensed drivers are able to satisfactorily converse in the English language.**

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- When will the Council know if the OLEV bid has been successful? If bid is unsuccessful then what will the Council do about the proposed condition? **The Council were notified on 5th February 2019 that we have been successful. Please see the below links:**
 - <https://www.newcastle-staffs.gov.uk/news/greener-taxis-plan-road>
 - <https://www.gov.uk/government/news/thousands-of-green-taxis-to-benefit-from-new-chargepoints>
- How many of the 25% HCVs that fail a test fail for major reasons and how many subsequently pass a retest? **10% of these vehicles required 3 tests before they passed. 5% of these vehicles were not permitted a retest due to the dangerous condition that they were presented to the Council in. When looking at HCV's between 9-15years old 9% of vehicles required 3 tests before they passed. 26% of these vehicles were not permitted a retest due to the dangerous condition that they were presented to the Council in.**

Comments

- The Electric Vehicle Condition seems to indicate that the only section of the transport sector responsible for poor air quality (AQ) in NULBC is taxis. This is not true but the requirement to improve the AQ seems to fall on the taxi trade alone. This is grossly unfair and implementing this policy would place extraordinary financial burden on the trade without any justification for doing so. **Officers have not said that the taxi trade are the only section of the transport sector responsible for the poor AQ levels in the Borough. However the taxi trade are the only section of that sector that the Council have any power to regulate and the Electric Vehicle conditions would assist in improving the AQ. As previously mentioned the Council are subject to a number of Ministerial Directions from Central Government to improve the AQ in the area. As part of the ministerial directions the Council is also looking at air pollution from buses and works will also be required to this sector of public transport. Government have stated that the Council must introduce a Clean Air Zone (CAZ) or carry out measures that achieve the same results as implementing a CAZ. Separately to the Taxi Policy consultation the Council are looking to achieve the desired end results without having to introduce a CAZ**
- No funding would place a significant financial burden on the Council to provide charging points and without the charging points in place the requirement to have electric taxis would seem unnecessary. **N/A**
- Public Safety is the purpose of the taxi test. It is irrelevant whether a vehicle passes on first or second attempt. **Officers disagree that it is irrelevant. All vehicles should be maintained to a legal and roadworthy standard at all times. Vehicles do not become unsafe overnight unless they are involved in an accident. It is often due to a lack of routine maintenance, lack of vehicle checks and some proprietors using the taxi test to find out what is wrong with the vehicle in order that they can then get it fixed. This is not acceptable and indicates that proprietors are knowingly presenting vehicles to the Council that are not roadworthy.**
- There is no evidence that EV's are more reliable or safe as they get older. All components of EVs are identical to other vehicles except the engine so these components will be subject to the same failure rate as other vehicles. To have a longer life for EVs can not be justified for this reason. **There is evidence that Electric Vehicles require less maintenance over a given period that diesel/petrol fuelled vehicles. This is down to fewer moving parts and the way that the engine assists with systems for braking etc. There is generally less wear and tear occurring in electric vehicles. Please see the below link for details of a study that had the**

results published in the Applied Energy Journal:

<https://www.sciencedirect.com/science/article/pii/S030626191731526X?via%3Dihub>

- There will be a significant financial burden imposed on the trade if the EV part of the policy is approved. The Council have stated that they have considered this but there is little evidence in this report that they have. **Officers have considered this. As a result of the consideration the Council proposed a longer life span for electric vehicles to assist with the outlay of purchasing the vehicle. This is inline with the comment above re: lower maintenance costs over the life of the vehicle. The Council have also been exploring ways in which to introduce infrastructure that would allow for electric vehicles to recharge more conveniently and quickly. Schemes such as the grant awarded from OLEV and talks with private companies will assist with this. In addition there are a number of grants available from OLEV for prospective buyers of electric vehicles including the London TX, and those wishing to install charge points at their home, on street or at their place of business. Please see below links for further details:**
 - <https://www.gov.uk/plug-in-car-van-grants/what-youll-get>
 - <https://www.gov.uk/government/publications/customer-guidance-electric-vehicle-homecharge-scheme>
 - <https://www.gov.uk/government/publications/workplace-charging-scheme-guidance-for-applicants-installers-and-manufacturers>

Officers would like to re-offer to organise a demonstration and testing of electric vehicles event for the trade.

- Uber in London have stated that all of their vehicles operating there will be EV by 2030. They have also implemented a 15p/mile surcharge on journeys in London to assist with the increased cost of purchasing an electric vehicle. If the local taxi trade introduced a similar price hike this would increase the journey fare and would mean losing more business to drivers/operators who have not increased the fares. **As the trade mentioned in the meeting on 22nd January London and Newcastle-under-Lyme/Stoke-on-Trent are not really comparable. Officers are already in talks with the NCTA to increase the metered taxi tariffs. The ability of members of the public to shop around with Private Hire Operators for the best rate is based on the principal of free market trade. It is up to each individual Operator as to what levels to set their fares at.**

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- When will the Council be getting the EVs? **As previously stated the Environmental Health Department are currently tendering for a new fleet including a proposal for Electric vans.**
- Are these vehicles subject to the OLEV funding bid success? If not then will Council be providing charging points from existing budget? **No. The Council will be looking to take advantage of external funding opportunities, similar to those outlined above.**

Comments

- The Council have said they are committed to improving standards of vehicles, not the safety, and lowering the age of vehicles does not improve a vehicle's safety. **Newer vehicles are subject to higher standards of safety testing than older vehicles have been through during their manufacture and design states. This means newer vehicles are inherently safer than**

older vehicles. In addition newer vehicles will likely have done fewer miles, had less wear and tear and a lower risk of exposure to accidents before they become licensed for the first time. The evidence discussed in the previous response supports that older vehicles are more likely to fail the Council safety test than newer vehicles.

- The policy mentions that all new and replacement vehicles would need to be EV or WAV. This indicates that the Council are refusing to licence petrol and diesel vehicles. WAVs can still be fuelled by petrol or diesel, although there would be a preference for electric WAVs to be considered by proprietors. In respect of Private Hire vehicles they would still be allowed to be petrol, diesel, hybrid or electric under the original proposals. The Council are willing to submit a proposal to the Committee to include alternative 'clean fuel technology' vehicles to be permitted to be licensed in the same way as electric vehicles. E.g. Hydrogen fuel cell powered vehicles. The implementation of a ULEV fleet would assist with reducing the number of petrol/diesel vehicles being used on the road and fits with the Government's 'Road to Zero' Strategy.

- <https://www.gov.uk/government/news/government-launches-road-to-zero-strategy-to-lead-the-world-in-zero-emission-vehicle-technology>

- Petrol and diesel vehicles can be filled within 5 minutes from a number of filling stations and have a range 3 times that of an EV. The lack of charging points and the time it takes to charge a vehicle should be considered by the Council and not dismissed. The concerns have not been dismissed, it is a valid point. However the ranges of electric vehicles are improving rapidly, and many can be purchased with a range extender. With respect to charging points there are many different types. The rapid chargers can charge vehicles quickly and often can charge more than one vehicle at a time.

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- If the OLEV is unsuccessful where does it leave the Council's commitment to ULEVs? N/A
- How does the age of a vehicle improve public safety? As stated above, newer vehicles are subject to higher standards of safety testing than older vehicles have been through during their manufacture and design states. This means newer vehicles are inherently safer than older vehicles. In addition newer vehicles will likely have done fewer miles, had less wear and tear and a lower risk of exposure to accidents before they become licensed for the first time.

Comments

- Owners selling vehicles that are no longer fit to be licensed is not something that the Council have control over and should not be used as a reason to remove grandfather rights. It is a valid concern held by Officers but it is not the only reason for the proposal to remove grandfather rights. The Council are working towards having a more accessible and lower emission fleet of taxis. Removing grandfather rights would mean that 'saloon' style vehicles would gradually come off the fleet and be replaced with either WAV or EVs.
- If the Council are committed to public safety then more frequent testing will improve this. PCVs are maintained and tested regularly. E.g. First buses have 21 vehicles between 10-13 years old, and 72 over 13 years old and these continue to operate. By allowing vehicles older to continue to operate subject to more frequent safety checks would seem to the trade to be the best option. Officers' preferred option is to lower the age limits for licensing vehicles in line with the evidence linked to current vehicles failing tests and to introduce conditions mandating that regular maintenance is undertaken.

- NULBC cannot influence Stoke CC's policy on vehicle age limits. Officers made this comment in response to a statement from the trade group about Newcastle's age policy reflecting Stoke CC's policy.

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- Why have the Council offered that new vehicles could be 4 years old? It could be 7yrs as the trade suggested. Officers were attempting to reach a compromise with the trade group, however there has not been any movement from the trade's side. The reason that 4 years was offered is because it was higher than the original proposal and lower than the current age policy. Evidence from the Council test failures show that 7 years old for licensing the vehicle for the first time is too old.
- Why have different age limits for EVs and WAVs? The reason for this was explained in the previous Council response. In the Officers attempted compromise the age limit for WAVs was extended to 10 years, the same as the original proposal for EVs.
- If the vehicle is owned by a company how would they meet the Basic DBS/Knowledge test requirement proposal? Those responsible for the company, the Directors/Managers, would need to have a basic DBS and have passed the Knowledge test.
- How does the Council test differ from an MOT test? The MOT standard is the lowest possible legal standard. The standard for passing the Council taxi test is higher than that of an MOT test. For example the current taxi policy states "In most circumstances where an advisory item has been identified on a VOSA MOT certificate, this will constitute a failure at the Council test". As the testers are not conducting an MOT they have flexibility to spend more time looking at issues when they are identified and can look at matters not included under the MOT test criteria.

Comments

- Have no maximum age limit but increase safety test frequency after 10yrs. This is not common practice nationally and evidence supports that that licensing vehicles past 10 years old reduces vehicle safety.
- There is no fit and proper test for vehicle owners so requiring a DBS certificate and knowledge test certificate is unnecessary. There is a wide discretion for Councils to request any information they deem necessary to ensure that the vehicle in question is fit, safe and suitable to be used as a Hackney Carriage/Private Hire Vehicle. Officers have proposed the DBS and knowledge test requirements as we want to be satisfied that vehicle proprietors are aware of how vehicles should be used and be confident that vehicles are not being licensed for any purpose other than genuine taxi work.
- The Council conduct an MOT test and fail vehicles as a result. Already stated that 25% fail tests so therefore the Council do conduct an MOT Test as part of the taxi test, the fact that they do not issue an MOT certificate is irrelevant. The Council could issue MOT certificates if necessary and do conduct them on private and Council owned vehicles. The Council garage is a registered MOT testing station but the testers do not carry out an MOT test during the Council test. An MOT test is very prescriptive and can only be carried out in a certain way. If a tester were to carry out an MOT test incorrectly then that would jeopardise their registration as a tester and the garage that they work for. However, discussions are ongoing with the garage around whether it would be possible to combine the two tests, or carry them out consecutively.

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None

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- How many of the 50% PHVs over 10yrs pass a retest and are relicensed? **Two thirds of these vehicles required 2 tests before they passed. A third of these vehicles were not permitted a retest due to the dangerous condition that they were presented to the Council in.**
- How do officers know that Members would not support the trade's proposal for vehicle age limits? **This comment was based on Members having approved the original proposals. The trade's proposal will be put to Members at the Committee meeting.**

Comments

- There should be no upper age limit on vehicles but the trade accept that there needs to be more regular testing for older vehicles. **Please see above points.**
- Increasingly manufacturers are offering warranties on vehicles for longer periods. The age of the vehicle should not determine whether a licence can be issued provided the vehicle meets the safety requirements. **It is common practice nationally for Councils to set age limits on vehicles for licensing, both at the point of entry and when they must stop being licensed. There are some manufacturers that issue fairly long warranties (e.g. up to 5-7 years) however it is common that stipulations are put on them such as a maximum number of miles (e.g. 100,000 miles), or a reduction in the years/mileage if the vehicle is going to be used for taxi/private hire work. Given that many licensed vehicles travel 30-50,000 miles per year the vehicles would only benefit from 2-3 years of warranty before it became void due to the distance travelled. Furthermore, those licensed vehicles that travel significantly less than 30-50,000 miles per year would only benefit from the warranty for the set time period of 3,5 or 7 years. Officers are not aware of any warranties that last for longer than 7 years which was the originally proposed age when vehicles should cease to be licensed.**

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Comments

- The condition that Private Hire Operators' bases should be in NULBC area should be removed. The old policy allows for bases outside of area and there have been no problems. This appears to be an officer preference rather than a legal requirement. Given the cross border hiring is now legal then this requirement appears unnecessary. **This is an interpretation of the legislation. As stated at the meeting there is a legal argument to both sides and as it has not been settled in a case by a binding court it is a matter of interpretation. There are concerns that if a base is located outside of the Borough boundary that there may be issues for enforcement officers. This will form one of the proposals that Members will be asked to decide upon.**

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- The penalty points scheme needs to be discussed further. A complete list of would not resolve the issues without more issues being raised. **Officers have asked twice for the trade to identify the area of the penalty points scheme that they wish to discuss with a view to amending the proposed scheme, but this has not been forthcoming.**
- The trade do not think the knowledge test is necessary for existing drivers who have had no issues. It could be used as a solution should the Council receive complaints about a driver and feel it necessary for the driver to prove his knowledge. **This forms one of the proposals detailed below.**

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- The trade would like the tinted window condition removed. **Please see previous comments. This forms one of the proposals detailed below**
- The trade believe that the proposed convictions guidelines are too stringent and that there should be some leeway to reflect the seriousness of the offences. By incorporating these guidelines it takes away the Council's ability to consider each application on its own merits. **The guidelines in whatever form they take are the starting point. The Council always retains discretion to depart from the guidelines but it is up to the applicant to convince the Members sitting on the Public Protection Sub-Committee that they should depart from the standards they have set.**

Question

- How are tinted windows tested and by whom? Is it done as part of the test at the Depot? **By the testers in the Council garage as part of the Council test.**

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Comments/statements made by trade:

- The example given in the last officer response in respect of convictions is a contradiction. If 1 speeding offence in a taxi would prevent you from having a licence for 2 years does it not indicate that you would be subject to action for the one offence? You must be a taxi driver to commit an offence in a licensed vehicle and therefore you cannot hold a licence for 2yrs and it must be revoked. More than 2 offences would mean a 5yr period and again the licence would have to be removed. **The example may not have been worded in the easiest way to understand. In brief there are several scenarios in which a licensed driver can commit multiple offences in a licensed vehicle. E.g.:**
 - **The driver has a licence with another authority and has committed an offence whilst using that licence before they apply to Newcastle; or**
 - **The driver commits an offence in a Newcastle vehicle and the Public Protection Sub-Committee determined to allow them to keep their licence, but the driver then commits another offence; or**
 - **The driver commits multiple motoring offences but doesn't notify the Council until renewal in which case they won't have been dealt with until that point.**

At meeting

- Can the Post Office validate documents for DBS applications? (at meeting)
No. They only do it for OISC registration to a standard level check:
<https://www.gov.uk/government/publications/disclosure-and-barring-service-dbs-check-guidance/oisc-disclosure-and-barring-service-dbs-check-guidance>

Proposals put forward by trade:

1. Do not include the English Speaking requirement as standard. To be used only where specific concerns are raised
2. If proposal number 1 is not approved then to only apply to new drivers and not existing drivers
3. Have a conversational English appointment at start of process for those concerned as to whether they would meet the standard.
4. To adopt the same age policy for vehicles as Stoke CC currently use which is vehicles licensed for the first time must be less than 7 years old and at 10 years old the vehicles are tested every 6 months.
5. To retain the grandfather rights for proprietors of non-wheelchair accessible hackney carriages, known as 'saloon taxis' as they are at present. This means that the proprietor of a 'saloon taxi' can replace it with a similar type of vehicle and not have to replace it with a WAV.
6. To combine the taxi test and MOT test, or at least have this as an option. Vehicles to be tested once per year and an MOT certificate issued alongside the taxi test.
7. Remove proposal for vehicle owners to have Basic DBS and knowledge test
8. To keep the Private Hire Operator (PHO) base location condition as it is currently. This means that those PHO's that currently benefit from an operator licence with a base located outside of the Borough of Newcastle can retain their licences if renewed consecutively. Also that the Council will accept application for new operators with bases either within the Borough of Newcastle or within a 1 mile boundary of the border.
9. That the new knowledge test to be for new drivers only
10. Keep medical requirement the same as it is currently which is that drivers are only asked obtain a medical certificate every other application which is every 6 years.
11. Allow factory fitted manufacturer tinted windows but not film
12. Amend motoring offences section in the convictions guidelines to say that action will only be taken when the driver reaches 12 points on DVLA licence.
13. Substitute proposed Penalty points system with a 3 warnings in 12 months system.
14. Magnetic operator door signs to be prohibited for all Private Hire Vehicles.
15. Hackney Carriages to be permitted to use magnetic door signs when working for a PHO in order that they can be removed when working on a rank.
16. Drivers to be prohibited from working for multiple PHOs at the same time

Officer proposal

1. To allow alternative 'clean fuel technology' vehicles to be licensed in same way as electric vehicles. For example, hydrogen cell fuelled vehicles to be permitted to be licensed until 10 years old, and could be licensed as a 'saloon taxi' Hackney Carriage.