

## **Newcastle-under-Lyme Borough Council**

### **Taxi / Private Hire Licensing Policy Consultation**

#### **Staffordshire County Council Response – December 2018**

The County Council is a significant buyer of taxi and private hire services across the County. Taxi/Private Hire operators provide the majority of the County Council's Special Educational Needs home to school transport and a small, but nevertheless significant, proportion of mainstream home to school transport (i.e. primary, middle and secondary schools). These services are provided under contract, within an EU Framework Agreement. The County Council's conditions of contract require that all contractors adhere to a high standard of delivery, which fits closely with raising standards through revision to licensing policy. We are keen to continue working with all licensing authority partners to maintain and improve standards of service delivery.

Our comments on the draft policy are presented in the order in which they arise in the document.

**DBS Requirements** (para 3.1.6) – we welcome the inclusion of provision for information sharing between the Borough and County Councils. It is also helpful that reference to separate requirements for working on home to school contracted transport is included. There is a specific page on the County Council's website in relation to this which may be useful to include a link to:

<https://www.staffordshire.gov.uk/education/schoolsandcolleges/Schooltransport/School-Transport-DBS-Safeguarding/School-Transport-DBS-Safeguarding.aspx>

**Safeguarding Training** – (para 3.2.4 & 3.2.5) – the County Council provides level one safeguarding training courses for contractor staff (drivers and passenger assistants). This training is delivered to Staffordshire Safeguarding Children Board level one standard and so the Borough Council may wish to consider accepting proof of attending this course as meeting the training requirements for the licensing policy. Where licensing authority safeguarding training is delivered to Safeguarding Board level one standards, we also accept this as meeting our requirements for the purposes of working on contracted home to school transport.

**Transporting Children** – para 3.2.17 – in relation to contracted home to school transport, a refusal by a driver to transport a young person where no child seat is provided would create conflict with SCC contract conditions. The County Council do not require contractors or parents/carers to provide child seats although the latter are able to on a voluntary basis. We would seek further clarity being added to the licensing policy, perhaps an exception to the ability to refuse where the journey is operated under contract to the County Council. It is not always practicable for child seats to be used on home to school transport as there is often no ability to store seats at the destination school during the day and contractors will require the space in their vehicle for carriage of passengers/luggage on other bookings. If any

contractor has a safety concern regarding the carriage of one or more passengers, it is expected that they raise it immediately with ourselves so that the situation can be resolved.

**Ownership of vehicles** – paras 3.3.7 & 3.4.6. – We would comment that the vehicle registration document V5C is not proof of ownership and can only be used as evidence of the registered keeper.

**Age of vehicles** - paras 3.3.11 & 3.4.9 – the increased age limit for electric vehicles is supported. However, an age limit in excess of ten years for electric vehicles may be required at the present time in order to allow for a suitable payback period to make the necessary investment a realistic proposition. We would also suggest that consideration is given to allowing electric vehicles fitted with a “range extender” in light of the limited charging infrastructure that currently exists. This would mirror the allowances made by Transport for London for electric Hackney Carriages fitted with range extenders.

**Grandfather rights** - para 3.3.13 – the removal of grandfather rights for non-wheelchair accessible vehicles is supported. Our experience in procuring contracted home to school transport suggests a need to encourage an expansion in the number of wheelchair accessible vehicles being operated in the County.

**Vehicle Testing Requirements** - 3.3.17/18 & 3.4.14/15 – it is our view that the separation of MOTs and vehicle fitness test potentially creates a lack of visibility for the Borough Council on a vehicle’s compliance with roadworthiness requirements. We would suggest that either:

- The Council Test includes a review of MOT History so that any MOT failures are brought to light, allowing any specific concerns to be acted upon; or
- The Council Test and MOT are harmonised such that all MOT tests are in effect conducted by the Borough Council or testing station as approved by the Borough Council.

In relation to vehicles fitted with tail lifts (para 3.4.13), we would welcome additional clarification that the requirements of the LOLER 1998 Regulations are that a passenger tail lift is inspected by a competent person every 6 months. The inspection document will also identify any defects that may be present along with the timescales within which they must be addressed. We would request that the Council Test for vehicles fitted with a tail lift includes a check that the LOLER certificate is less than six months old and that there is evidence of defect rectification should any have been identified.

Paragraph 3.3.20 refers to a provision for 28 days to rectify a failure. This is a lengthy period during which a vehicle may not be roadworthy. It is, therefore, suggested that the period be shortened or consideration given to revoking a vehicle’s plate until such time as the failure is addressed in order to prevent passengers from

being carried. It is further suggested that the principle of not accepting a vehicle after failure of test and re-test should also be applied to MOTs.

**CCTV** – paras 3.3.27 & 3.4.25 – we recognise that CCTV systems that are professionally installed and fully GDPR compliant can be a useful tool to safeguard both drivers and passengers. We, therefore, support the allowance for CCTV to be fitted to vehicles on an optional basis. It may be useful to refer to the appropriate guidance on CCTV systems that is published by the Information Commissioners' Officer. We are aware that some drivers use "dashcams" in their vehicles. It is our view that the use of "dashcams" is unlikely to comply with GDPR as the information storage on such devices is not sufficiently secure (for example, the device and/or memory card could easily be stolen). Given the widespread use of "dashcams", it may be useful to expand the policy on CCTV to include reference to these and set out the Borough Council's policy on whether or not their use is appropriate in a licensed vehicle.

**Appendix B – Driver Code of Conduct.** The Council fully supports the requirement for drivers to be subject to Group 2 DVLA Medical Standards. In this respect it would be useful to add clarity to the requirement for drivers to notify the licensing authority of any medical condition that the threshold for notification would be any condition that either places the driver outside of Group 2 Standards or where the Group 2 Standard requires notification to the DVLA. – clarify to notify any condition that would put driver outside of Group 2 DVLA standards, guidance available online, medical professional can advise them.

Paragraph 14 refers to drivers providing an operator with copy of DVLA licence. We would suggest that this is further expanded to require production of a photocard and check codes on request to allow regular online checks of counterpart licence.

Paragraph 23 prevents the carriage of passengers below age of 14 in front seat. With reference to our comments on the carriage of children, this condition could conflict with our conditions of contract for home to school transport. An amendment or exception for contracted home to school transport would, therefore, be welcomed.

In relation to daily walk around checks (para 35) – we would suggest the use of the template in the DVSA Guide to Maintaining Roadworthiness or equivalent. It may assist operators and drivers to refer to the availability of pre-printed books or apps for conducting checks.

As Hackney Carriage / Private Hire Drivers are not subject to driving hours legislation, it is suggested that a responsibility is placed upon drivers to limit their working hours so that they are properly rested between shifts to avoid fatigue creating a safety risk.

**Appendix D – Hackney Carriage Conditions of Licence.** With reference to vehicle maintenance, paragraph 9, it is suggested that the vehicle proprietor should

be able to demonstrate maintenance to the vehicle manufacturer's recommended schedule.

**Appendix E – Hackney Carriage Vehicle Specifications.** Paragraph 3(a) seating requirements could perhaps be clarified to allow for wheelchair accessible vehicles that have removable seats e.g. by referring to “vehicles adapted to carry”. Best practice for the carriage of passengers in wheelchairs (para 5.4) is to secure the wheelchair in a forward facing position. It is suggested that para 5.7 specifically mentions compliance with LOLER 1998 regulations.

**Appendix G – Private Hire Vehicle Conditions.** With reference to paragraph 8 it is suggested that the vehicle proprietor should be able to demonstrate maintenance to the vehicle manufacturer's recommended schedule.

**Appendix H – Private Hire Vehicle Specifications.** It is suggested that the principle of limited re-tests should also apply to MOT as repeated MOT failures would suggest the same concerns as a vehicle repeatedly failing a Council Test. In relation to paragraph 26, best practice is for passengers in wheelchairs to be carried in a forward facing position.

**Appendix I – Private Hire Operator Conditions –** In respect of maintenance (para 18 & 19) – it is suggested that the operator should monitor that daily vehicle checks are taking place including checking evidence of defect rectification. In addition, operators should ideally obtain copy MOTs from drivers and monitor MOT history for any concerns about vehicle maintenance. It is also advisable for Operators to conduct regular checks that vehicles working for them have valid road tax – there is a risk that where vehicle tax is paid via direct debit of failure to make a payment which in turn will lead to revocation of the vehicle's tax by DVLA. We would also request that Operators be accountable for not allowing drivers to work excessively long hours, both in terms of shift length and total driving hours across a working week.

**Appendix K – Code of Conduct when working with Vulnerable Passengers.**

The inclusion of a specific code of conduct for working with vulnerable passengers is fully supported. With reference to vulnerable passengers being seated in front of vehicle, the wording as it stands conflicts with our conditions of contract for home to school transport. A vulnerable passenger may be required to sit in the front seat either because all of the passenger seats in the vehicle need to be used or separation is required between one or more passengers for behavioural reasons.

The requirement to keep an incident log is useful and fully supported. In relation to care of vulnerable passengers, it may be useful to include reference to the need to ensure care is discharged to responsible person at the passenger's destination.

## **Appendix L – Penalty Points**

The inclusion of a “penalty point” system for dealing with compliance matters is welcomed. We would comment on specific items as follows:

- Item 14 – using vehicle subject to suspension order – this could be expanded to include reference to a PG9 prohibition notice either immediate or S-marked issued by a DVSA vehicle examiner.
- Item 28 – obstruction of officer – we would suggest the addition of DVSA Vehicle Examiners within this item.
- Item 54 – within the wording of this item, it is suggested that it includes mention of below legal minimum tread depth of 1.6mm. Given the requirement within the policy to undertake daily vehicle checks, recorded in writing, the scenario of a vehicle being used with a tyre worn below the legal limit should never arise if checks have been properly conducted. On this basis, any vehicle used with a tyre worn below the legal limit demonstrates both disregard for maintaining a vehicle in a safe roadworthy condition and in conducting suitable vehicle checks. Our view, therefore, is that the number of penalty points should be higher, preferably at least 9 points for one tyre and at least 12 points for two or more tyres worn below the legal minimum.
- Item 58 – driving whilst using a mobile phone – it is suggested that wording is amended to refer to using a hand held mobile phone or similar device contrary to the law. Professional drivers should be held to the highest standards of conduct and so any proven instance of a handheld mobile phone or similar device demonstrates a complete disregard for both the safety of passengers and other road users. On this basis, we would request that this offence has an increased number of penalty points, preferably 12.

In addition, we would request consideration of additional items to cover:

- Use of a vehicle fitted with a passenger tail lift without a valid LOLER inspection.
- Excessive vehicle idling whilst parked or waiting.
- Drivers working excessively long shifts or having insufficient rest between shifts.