

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

Licensing and Public Protection Committee
20 September 2022

Report Title: Proposed amendments to Taxi Licencing Policy 2021-2025

Submitted by: Head of Regulatory Services

Portfolios: Finance, Town Centres and Growth

Ward(s) affected: All

Purpose of the Report

To determine proposals for amendments to the Taxi Licensing Policy as proposed by Officers

Recommendation

That

- 1) Members determine that the proposals contained within this report are implemented into the Policy inline with the proposed implementation dates

Reasons

Since the Policy was last amended in January 2021 to implement the changes made due to Statutory Guidance, and February 2022, to remove the requirement for drivers to undertake a relevant BTEC course, there have been multiple new pieces of legislation and matters identified by Officers that could assist with the administration of the taxi licensing regime.

1. **Background**

- 1.1 The Council's current taxi policy was implemented on 1st November 2019. It has undergone two reviews since. Firstly in January 2021 when the Committee determined to adopt the provisions of the Statutory Guidance issued by the Department for Transport. Then again in February 2022 where following officer recommendation the Committee agreed to remove the requirement for drivers to have passed a relevant BTEC vocational course that is no longer run locally.
- 1.2 The policy can be reviewed at any time within the currency of the policy and the Council has committed to reviewing the policy every 5 years at a minimum. Officers keep a record of issues that are identified through matters arising out of applications and dealing with licence holders, as well as monitoring changes in legislation and guidance. All of these considerations inform potential reviews of the policy.
- 1.3 Contained at Section 1.4 of the taxi licensing policy are provisions that relate to when the policy will be reviewed and when amendments can be made without consultation with stakeholders:

"1.4 Review of the Policy

1.4.1 The policy will be formally reviewed after 5 years. However, it will be the subject of continuous evaluation and, if necessary, formally reviewed at any time. At the time of each review relevant stakeholders will be consulted.

1.4.2 Minor changes would be made without consultation where:

- they are to correct an administrative error
- they are a change needed because something is no longer possible or legal
- there is no foreseeable detrimental effect to licensee's interests."

1.4 Taxi licensing is an ever evolving regime. A primary example of this is the two new pieces of legislation enacted this year that were borne out of Private Members' Bills, the details of which were reported to the Committee meeting on 28th June 2022. The Taxi and Private Hire Vehicles (Disabled Persons) Act 2022 ("the Act") vastly changed the scope of the Equality Act 2010 by broadening the protections for disabled persons and increasing the responsibilities of both taxi and private hire drivers, and private hire operators.

1.5 On 17th August 2022 Officers notified all current Private Hire Operators, Trade association representatives and a local licensing consultant on the below proposals with a view to obtaining any comments in relation to them. They were asked to disseminate the information to their drivers, members and clients respectively. They were given until 2nd September 2022 to offer any comments with the intention that they would be fed into this report for Members to consider. A copy of the correspondence is attached as Appendix 1.

2. Issues

2.1 The current taxi licensing policy provides that all new applicants for a taxi driver licence must undertake Disability Equality Training:

"3.2.4 In addition to submitting the application form and fee an applicant must: Pass Disability Equality Training approved by the Council" and for applicants renewing their licence:

3.2.5 On renewal of an existing licence, applicants must: Pass Disability equality training approved by the Council (first renewal after policy implementation only)".

2.2 With the policy having been in force since November 2019 and the above disability training requirements for drivers having been in force since January 2020 it is approaching 3 years from its inception. In that time we have progressed a small number of complaints in relation to discrimination due to individuals' disabilities, such as refusals to carry assistance dogs or offer assistance with luggage. It is also evident that there are no provisions within the policy that relate to private hire operators undergoing the disability training.

2.3 The Act has amended the Equality Act 2010 and placed much wider considerations and responsibilities on both drivers and private hire operators than ever before. The primary reason Officers are requesting this review of the policy relates to amending the provisions around who has to undertake the Disability Equality (DE) training and how frequently they must undertake it to ensure that the persons involved in the trade have sufficient knowledge to undertake their duties professionally and eliminate discrimination against those with disabilities. However there are a number of other matters also being proposed, as can be seen in the table below.

- 2.4 Officers are proposing that the provision for new drivers at 3.2.4 remains the same, but the provision at 3.2.5 that relates to drivers renewing is amended to remove the clause that relates to it being on “*first renewal after policy implementation only*”. In effect this would mean that drivers have to undertake the DE training every time they renew their licence, normally every 3 years. This would fall in line with the Safeguarding and CSE training requirements for new and renewal drivers.
- 2.5 Officers are also proposing that all Private Hire Operators should undertake the same DE training due to the requirements placed upon them. There is currently no requirement for anyone involved in the operation to undertake any training other than the same Safeguarding and CSE training that drivers go through. This would apply to all persons named on the licence whether it be as individuals, sole traders, a partnership, or in the case of a company all directors, partners and company secretaries. It would also apply to all employees of the operation, in line with the current provisions around the Safeguarding and CSE training.
- 2.6 Whilst not a matter for the policy, if this proposal is successful, officers are intending on amalgamating the Safeguarding and CSE training with the DE Training to reduce the number of courses that individuals have to undertake, improve the economies of scale and therefore reduce the overall cost to an applicant. We are currently in discussions to procure a suitable provider for this joint course should the proposals be agreed.
- 2.7 Adopting the proposed amendments in relation to the training requirements, and several other minor amendments, into the current taxi licensing policy requires the changes outlined in the table below together with the page number for the new/amended text indicated via track changes in the amended policy attached as **Appendix 2**.

Proposed change	Page number in amended policy
a) Version number	2
b) Total number of licences	9
c) Information on application submission	13
d) New driver time frame for completion of DE Training	16
e) Amendment to medical provisions for greater clarity on who can administer the tests and what records they need to have available (new applicants)	16
f) To remove the clause that the DE training is only required upon first renewal and include timeframe for successful completion	17
g) Amendment to medical provisions for greater clarity on who can administer the tests and what records they need to have available (renewal applicants)	17
h) Add criteria for an HPI check, or equivalent, to be provided prior to licensing a HCV if requested by the Council	21
i) Clarity on when a HCV must be retested after having been in an accident	22
j) Clarity that relevant parties must complete V5 logbook for HCVs	23
k) Add criteria for an HPI check, or equivalent, to be provided prior to licensing a PHV if requested by the Council	28

l) Clarity on when a PHV must be retested after having been in an accident	29
m) Clarity that relevant parties must complete V5 logbook for PHVs	29
n) Correct error on timeframe PHOs have to complete safeguarding training	34
o) Include new provision that PHOs must undertake the DE training	34
p) References to PHOs undertaking DE training	36
q) Include that drivers must inform Council if licence/s held by another authority are suspended, revoked or refused	47
r) Amend code of conduct to not accept property in lieu of payment	48
s) Removal of irrelevant condition on HCV licence	57
t) Clarify timeframe for notification of driver details for HCVs	57
u) Include new condition that proprietors must notify Council if HCV is declared a total loss/write off	57
v) Include a new condition that proprietors of HCVs must provide an HPI check, or equivalent, upon request	57
w) Clarify timeframe for notification of driver details for PHVs	65
x) Include new condition that proprietors must notify Council if PHV is declared a total loss/write off	65
y) Include a new condition that proprietors of PHVs must provide an HPI check, or equivalent, upon request	65
z) Provide clarity as to what information is required to be retained for contract bookings	76

2.8 Having sought legal advice it is Officers opinion that none of the proposed amendments could be considered detrimental to the licensees' interests.

3. **Proposal**

3.1 Members determine that the proposals are implemented into the Policy inline with the proposed implementation dates below:

3.1.1 The joint Disability Equality, Safeguarding and CSE Training to be implemented from 1st January 2023 to allow for the procurement of a suitable provider; and

3.1.2 All other proposals are implemented with immediate effect.

4. **Reasons for Proposed Solution**

4.1 To provide clarity around certain provisions within the policy;

4.2 To remedy some information within the policy;

4.3 To extend and clarify the requirements around who is mandated to complete the Council's DE training course. To allow for more frequent training on an evolving subject, similar to Safeguarding matters, and include Private Hire Operators who have

significant responsibilities to vulnerable customers but currently receive no training on the matter.

5. **Options Considered**

- 5.1 That the amendments proposed will provide greater clarity for all parties that use the policy, and ensure that all relevant persons are undertaking relevant training for the role that they play in the taxi and private hire trade.
- 5.2 Do nothing, although that would not achieve the goals proposed
- 5.3 Modify the proposals as considered appropriate to achieve the same objectives

6. **Legal and Statutory Implications**

- 6.1 Licensing authorities are under a legal duty, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards. Part of the Statutory Standards provides that Councils should have “*a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a ‘fit and proper’ person test, licence conditions and vehicle standards. When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated.*”
- 6.2 Inherent in this duty is a duty to keep policy documents under review and up to date. The proposals set out here are designed to comply with that duty.
- 6.3 Another legal consideration is whether there is a duty to consult on what is proposed here. The relevant considerations in this regard are set out in the body of the report.

7. **Equality Impact Assessment**

- 7.1 EIA was considered by Government in formulating the statutory guidance. No EIA has been conducted with specific regard to these proposed amendments. However, the substantive changes are designed to improve disability and equality awareness which can only have a positive impact on equality considerations.

8. **Financial and Resource Implications**

- 8.1 The proposed changes will have very little impact on resources to administering the changes. There are no financial impacts upon the Council identified arising from this report, however PHOs and drivers renewing for a second time since the policy was introduced, do not currently undertake DE training which means that they would be subject to additional training and potentially costs, although they would be low.

9. **Major Risks**

- 9.1 No major risks have been identified.

10. **Sustainability and Climate Change Implications**

- 10.1 There are no impacts identified arising from this report.

11. **Key Decision Information**

- 11.1 This is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 Public Protection Committee, 20th August 2019 – initial adoption of the Taxi Licensing Policy 2019-2021

12.2 Public Protection Committee, 12 October 2020 – proposed adoption of the Taxi Licensing Policy 2021-2025 re: Statutory Standards

12.3 Public Protection Committee, January 2021 – adoption of the Taxi Licensing Policy 2021-2025 re: Statutory Standards

12.4 Public Protection Committee, February 2022 – adoption of the Taxi Licensing Policy 2021-2025 re: removal of vocational course

13. **List of Appendices**

13.1 Appendix 1 – Notification to Trade email – 17th August 2022

13.2 Appendix 2 – Version 13 NUL Taxi Policy 2021-2025.

14. **Background Papers**

14.1 [Statutory Taxi & Private Hire Vehicle Standards – Department of Transport – July 2020](#)