

SOUTH STAFFORDSHIRE COUNCIL

LICENSING & REGULATORY COMMITTEE – 19 JANUARY 2022

CONSULTATION ON TAXI LICENSING CONDITIONS AND GUIDELINES

REPORT OF GREG BICKERDIKE

PART A – SUMMARY REPORT

1. SUMMARY OF PROPOSALS

- 1.1 To seek approval for consultation on updated taxi and private hire licence conditions, guidelines and policy, following the publication of the Department for Transport's 'Taxi and private hire vehicle best practice guidance'.

2. RECOMMENDATIONS

- 2.1 Approve a 12-week consultation on the taxi and private hire licence conditions, guidelines and policy.

3. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	
	Has an Equality Impact Assessment (EqIA) been completed?	
	No	Full assessment to be completed following consultation. New conditions highlight duties to disabled people.
SCRUTINY POWERS APPLICABLE	No	
KEY DECISION	No	
TARGET COMPLETION/ DELIVERY DATE	September 2023	
FINANCIAL IMPACT	No	There are no financial implications associated with this report. The consultation will be run via City of Wolverhampton Council's consultation hub.
LEGAL ISSUES	Yes	Detailed below.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	

IMPACT ON SPECIFIC WARDS	No	
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PART B – ADDITIONAL INFORMATION

4. INFORMATION

4.1 BACKGROUND

- 4.2 The Department for Transport consulted on its latest 'Best Practice Guidance'. This consultation ran from 28 March 2022 to 20 June 2022.
- 4.3 In anticipation of the final guidance's publication, pre-emptive approval is sought for a consultation on updated licence conditions, guidelines and vehicle policy.
- 4.4 City of Wolverhampton Council has approved a consultation on this and South Staffordshire Council are cordially invited to jointly participate.

GUIDELINES RELATING TO FITNESS AND PROPRIETY

- 4.5 The Council has a duty to protect the general public from harm when using Hackney Carriage or Private Hire Vehicles. In order to do this, the Council must satisfy itself that licence holders are 'fit and proper' persons.
- 4.6 Guidelines on Fitness and Propriety (the Guidelines) are used to provide the Council with a written framework which allows employees and Councillors to make fair and consistent decisions when assessing the suitability of applicants for hackney carriage or private hire licences.
- 4.7 The Guidelines are also applicable for existing drivers, proprietors and operators when they breach conditions, are convicted/cautioned for relevant offences or behave in a manner that is inconsistent with that expected from a licence holder.
- 4.8 The Guidelines are reviewed on a periodic basis to ensure that they take into account revised and current legislation along with local and national licensing proprietors and technological advancements. The last review of these Guidelines was undertaken in 2019.
- 4.9 A draft copy of the Guidelines is included as Appendix 1. A summary of major changes is:
- A. Clarity regarding DBS certificate requirements for vehicle proprietors.
 - B. Clarity regarding those on barred lists.
 - C. Clarity on English standards expected.

- D. Clarity on offences relevant to driving whilst under the influence of drink and/or drugs.
- E. Updates as a result of the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022.

CONDITIONS

- 4.10 The Council may attach conditions of licence as it sees reasonably necessary. Where legislation does not specify a timescale within which the licensing authority must be notified of information, this has now been standardised to 48 hours.
- 4.11 A draft copy of the Hackney Carriage Vehicle Licence conditions is included as Appendix 2. It should be noted that the draft conditions presume approval of the contactless payment conditions at today's committee. A summary of major changes is:
 - A. Training requirements for drivers of wheelchair accessible vehicles.
 - B. Prohibition of child locks and disablement of airbags.
 - C. Inclusion of requirements to notify of police involvement and road traffic accidents.
- 4.12 A draft copy of the Private Hire Vehicle Licence conditions is included as Appendix 3. A summary of major changes is:
 - A. Training requirements for drivers of wheelchair accessible vehicles.
 - B. Prohibition of child locks and disablement of airbags.
 - C. Updates relating to signage when the vehicle is being used for school transport contracts.
 - D. Requirements to notify the Council if the licence holder is interviewed by police, intended to be prosecuted by the police or the vehicle is seized by police.
- 4.13 A draft copy of the Private Hire Driver Licence conditions is included as Appendix 4. A summary of major changes is:
 - A. Proposals on the requirements regarding operators, including provision to support drivers working on school transport contracts.
 - B. Requirement to notify Licensing Services if the driver becomes licensed, reviewed, suspended or revoked by another licensing authority, as well as being added to a barred list.
 - C. Clarity on drivers' obligations under The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022.

- 4.14 A draft copy of the Private Hire Vehicle Operator Licence conditions is included as Appendix 5. A summary of major changes is:
- A. Clarity on operators' obligations under The Taxis and Private Hire Vehicles (Disabled Persons) Act 2022.
 - B. Enhanced checks on driver licence verification.
 - C. Requirement to notify Licensing Services of school transport contract work contracted to non-partnered drivers, in addition to reporting drivers banned by schools.
 - D. Requirement to notify Licensing Services if the operator becomes licensed, reviewed, suspended or revoked by another licensing authority.

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING POLICY

- 4.15 This policy outlines the normal vehicle licence requirements. The primary changes are to the vehicle signage exemption policy, at the request of the trade. Other changes include clarification on common questions asked of Licensing Services, as well as the proposed Driver Safety Enclosure regulation. A draft copy is included as Appendix 6.

CONSULTATION

- 4.17 It is proposed that the Committee approves a consultation on the draft guidelines and licence conditions, in anticipation of the Department for Transport publishing its Best Practice Guidance.
- 4.18 The draft documents will be updated to reflect the final guidance.
- 4.19 It is proposed to publish the consultation document on City of Wolverhampton Council's website for 12 weeks. The following will be consulted:
- A. Service users (licence holders and applicants)
 - B. Other licensing authorities
 - C. National Association of Licensing Enforcement Officers (NALEO)
 - D. Institute of Licensing (IoL)
 - E. Black Country Magistrates' Court
 - F. Department for Transport (DfT)
 - G. Disabled groups
 - H. Equality Diversity and Inclusion Team
 - I. Police forces

IMPACT ASSESSMENT – ADDITIONAL INFORMATION

This consultation will inform a full equalities impact assessment.

PREVIOUS MINUTES

BACKGROUND PAPERS

Relevant Legislation

- 5.1 Section 47 (1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may attach to the grant of a licence of a hackney carriage under the Town and Policies Causes Act of 1847 such conditions as the district council may consider reasonably necessary and section 47 (3) provides the safeguard of an appeal for anyone aggrieved by any condition attached to the licence.
- 5.2 Section 48 (2) of the Act provides a district Council may attach to the grant of a private hire vehicle licence such conditions as they may consider reasonably necessary and section 48 (7) provides the safeguard of an appeal for anyone aggrieved by any condition attached to the licence.
- 5.3 Section 51 (2) of the Act provides that the Council may attach such conditions to a private hire driver's licence as the Council considers are reasonably necessary and section 52 provides the safeguard of an appeal to the Magistrates' Court for anyone aggrieved by any conditions attached to the licence.
- 5.4 Section 55 (3) of the Act provides that the Council may attach such conditions to an operator's licence as the Council considers are reasonably necessary and section 55(4) provides the safeguard of an appeal to the Magistrates' Court for anyone aggrieved by any conditions attached to the licence
- 5.5 Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence.

"Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence".
- 5.6 Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states that a Council, before granting a Hackney Carriage Driver's Licence must be satisfied that an applicant is a fit and proper person to hold such a licence and that the applicant has for at least 12 months prior to the date of the application, been authorised to drive a motor car.
- 5.7 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states a district council may suspend or revoke or on application, refuse to renew a licence of

a driver of a Hackney Carriage or a Private Hire Vehicle on any of the following grounds:

That since the grant of the licence he/she has been convicted of an offence involving dishonesty, indecency or violence;

or

That since the grant of the licence he/she has been convicted of an offence under, or has failed to comply with the provisions of the Town & Police Clauses Act 1847 or this part of the Act;

or

Any other reasonable cause

- 5.8 Section 55(1) of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate Private Hire Vehicles grant to that person an operator's licence.
- 5.9 Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.
- 5.10 Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council may suspend or revoke or refuse to renew a vehicle if:
- The Hackney Carriage or Private Hire Vehicle is unfit for use as a Hackney Carriage or Private Hire Vehicle
 - An offence has been committed under the Town, Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976
 - Any other reasonable cause
- 5.11 What constitutes fit and proper is not defined in legislation however, case law states Councils are entitled to have their own policy (Guidelines) to specify how it determines whether a person is fit and proper. In addition, there is a legal requirement to ensure all applicants/licence holders are given a fair hearing and guidelines help to ensure consistency in decision making.
- 5.12 Although there are no legal requirements to review the Guidelines, it is good practice to do so particularly when there have been changes in legislation.

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