

LICENSING COMMITTEE	AGENDA ITEM No.4
6 JULY 2017	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Walsh – Communities and Environment Capital	
Contact Officer(s):	Terri Martin – Regulatory Officer – Licensing Kerry Leishman – Licensing and Business Manager Peter Gell – Head of Regulatory Services	Tel. 453561 Tel. 453502 Tel. 453419

PROPOSED TAXI POLICY – RESPONSES TO CONSULTATION AND ADOPTION OF FINAL POLICY AND IMPLEMENTATION DATE

R E C O M M E N D A T I O N S	
FROM : The Licensing Team	Deadline date : N/A
<p>Request members determine the following hackney carriage and private hire matters raised during the consultation period on the draft hackney carriage and private hire licensing policy.</p> <p>1) Review the response table attached at Appendix 6 and confirm if they agree with officer direction on areas where no amendment is required. Or Is there a response received, which has been dismissed by officers, which you would like to consider further? (see 6.4)</p> <p>2) Consider the responses received proposing alternative arrangements in the following matters:</p> <p>(i) Do members wish to amend the policy and current process, by adding a condition within the private hire driver conditions and hackney carriage byelaws to require all licensed drivers to register for the DBS update service, maintain continuous registration and nominate the licensing authority to receive updates? Or, Retain the status quo (see 7.10)</p> <p>(ii) Should the policy include a clarification paragraph regarding the police being the enforcing body for driving offences? (See 7.13)</p> <p>(iii) Determine if we continue with the draft proposal regarding purpose built low emission licensed vehicles, in light of responses received, or amend and adopt an alternative option proposed in responses? (see 7.25)</p> <p>(iv) Consider and determine requests from the trade to extend the life in service for hackney carriage vehicles by an extra 5 years, thereby allowing a HCV to be licensed up to 20 years old from date of first registration? (See 7.27)</p> <p>(v) Consider and determine the frequency of Group 2 medical checks in light of the response received. (See 7.31)</p> <p>3) Approve the final policy for adoption, subject to amendments, and set the implementation date, which allows for a period of transition over to new conditions and processes.</p>	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Committee following the consultation process, (as agreed by the Licensing Committee on 8 December 2016) on the draft hackney carriage and private hire licensing policy.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to advise members of the consultation process carried out, to request members to properly consider the responses received and determine the direction of the policy in consideration of those responses, agree the adoption of the final policy, subject to amendments, and set the implementation date for the policy and conditions to take effect.
- 2.2 This report is for committee to consider under its Terms of Reference No. 2.5.1.3 (a). To exercise the functions of the authority as listed in Schedule 2.5.4.1, where these are not delegated to officers as listed at section 2.5.3, namely hackney carriage and private hire vehicle licensing.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO
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4. BACKGROUND

- 4.1 Hackney carriage and private hire legislation is primarily concentrated in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The aim of the legislation is to protect the public. The legislation provides a broad framework for the licensing of drivers, vehicles and operators, but allows local authorities to set their own standards and conditions, to ensure the public travel in safe well maintained vehicles driven by competent drivers.
- 4.2 On the 8 December 2016, a report was considered by the licensing committee regarding the development, direction and consultation of an overarching policy for hackney carriages and private hire licensing.
- 4.3 The committee determined eight new hackney carriage and private hire matters which were to be incorporated into the draft policy for consultation. The eight new proposals amended current conditions and processes when administering the functions conferred within the Acts.

5. CONSULTATION

- 5.1 The draft policy with 12 appendix documents was put out to consultation for 8 weeks, starting on Friday 7th April 2017 and ending on Friday 2nd June 2017. The full consultation document can be found at **Appendix 1**.
- 5.2 A copy of the public notice which appeared in the local press on Thursday 6th April 2017 advising of the consultation and period can be found at **Appendix 2**
- 5.3 The consultation document was made available at the Town Hall, Bayard Place and the council's website. The launch of the consultation was also tweeted. See **Appendix 3** to view the Tweet
- 5.4 Emails were sent to various stakeholders, advising them of the consultation and period and included a link to the full consultation document on the council's website and a pdf attachment of the full consultation document. Reminder emails to the trade were also sent halfway through the consultation period. See **Appendix 4** for a full list of those consulted.
- 5.5 Notices were put up on the taxi notice board at the railway station and at the hackney rank near the bus station, advising of the consultation and process.
- 5.6 Meetings with representatives of the trade, took place where details of the draft policy were discussed in further detail.
- 5.7 Statistical information showing the website views of the consultation document can be found at **Appendix 5**.

6. CONSULTATION RESPONSES

- 6.1 A total of 15 responses to the consultation were received. Three from Councillors, seven from the trade, three from partner agencies and two from other persons. A response table which details the

salient points of the consultation responses, officer comment and areas to be determined can be found at **Appendix 6**.

- 6.2 The consultation responses in full can be found at **Appendix 7**. Please note due to data sensitivity, certain identifying detail has been redacted.
- 6.3 All responses received during the consultation period must be properly considered prior to drafting and determining the final policy. Officers have reviewed the responses and have determined that some of the proposals within the responses, could/should not be considered as a valid proposal, officers have provided reasoning for the decision of why such matters cannot be taken forward.
- 6.4 Members are asked to consider the responses received and determine;
Do members agree with officers direction where the officers direction within the response table is to propose no amendment?
Or is there a response received which has been dismissed by officers which you would like to consider further?

7. CONSULTATION RESPONSES RECEIVED PROPOSING ALTERNATIVE ARRANGEMENTS

- 7.1 In the response received from Hannah Campling (Peterborough City Council Safeguarding), feedback is also provided from Cambridgeshire Constabulary DBS unit. The DBS Unit manager highlighted an error in the policy, as it made reference to the Notifiable Occupation Scheme which was withdrawn in 2015.
- 7.2 Officers have agreed to amend paragraph 3.30 in the policy, so that is in line with current legislative arrangements, and replace it with the following:
'Under Common Law Police Disclosure (CLPD) the police can share information regarding a licensed driver even before conviction if there is a 'pressing social need'. This ensures that where there is a public protection risk, the police will pass information onto a regulator body to allow swift actions to mitigate any serious safeguarding risk. The CLPD replaced the Notifiable Occupation Scheme which was withdrawn in March 2015.'
- 7.3 For ease of reference, the draft policy (Appendix 1) has been amended to show the wording which went out to consultation and the proposed reworded paragraph. (see paragraph 3.30 of Appendix 1)
- 7.4 The DBS Unit manager has also recommended consideration is given to require all licensed drivers to subscribe to the update service. They state 'the CLPD relies on the suspect telling the police what their occupation is. There is no legal requirement for this and some don't tell the truth.'
- 7.5 Page 14 of the LGA (Local Government Association) Taxi and PHV licensing councillors handbook (Dec 16) also suggest making it a mandatory requirement, it states;
The LGA suggests that all licensing authorities consider making it mandatory for drivers to register for the update service and nominate the licensing authority to receive updates. Licensees should be able to provide evidence of continuous registration and nomination throughout the duration of their licence'.
- 7.6 Even if drivers do sign up to the update service, the local authority are not automatically notified. It would require a search into that particular record. On an individual basis this system would not be a viable option. However, the DBS do offer a method of checking multiple status updates electronically.
- 7.7 GB Group process DBS applications on our behalf. Enquiries will be made with GB Group to ascertain if they can offer efficient multiple status update checks, what the cost would be, the frequency at which such checks could be carried out, etc. At the time of writing this report, we do not have sufficient information about the viability of this option, to assist members to make a more informed decision. Officers hope to be able to provide members with this information at the committee meeting.
- 7.8 If members are minded to adopt the suggested proposal, it would require an amendment to the private hire drivers licence conditions and the hackney carriage byelaws.
- 7.9 Drivers currently pay £44 for the DBS check plus a £10 administration fee to GB Group, which is carried out every three years. If drivers sign up to the update service, once the initial £44 (plus £10 admin fee) is paid there is a yearly fee of £13.

- 7.10 Members are asked to consider the response received and determine.
Do members wish to amend the draft policy and current process, by adding a condition within the private hire driver conditions and hackney carriage byelaws to require all licensed drivers to register for the update service, maintain continuous registration and nominate the licensing authority to receive updates? Or,
Retain the status quo
- 7.11 The last item in this response, was a request to amend the definition of CSE within the policy, in line with DfE definition 2017. Officers have agreed to redraft paragraph 5.3 to the current definition provided by DfE.
- 7.12 For ease of reference, the draft policy (Appendix 1) has been amended to show the wording which went out to consultation and the proposed reworded paragraph. (See paragraph 5.3 of Appendix 1)
- 7.12 Cllr Over raised concerns regarding the driving standards of licensed drivers, stating they were dangerous, reckless and drove at speed. Complaints of this nature should be reported to the police.
- 7.13 Members are asked to determine
In order to provide clarity, do members agree to the addition of the following paragraph within section 6 – Enforcement:
‘Any person who witnesses speeding, dangerous, reckless, or careless driving by a licensed driver or otherwise, should report each incident to the police (as they are the enforcing body for driving offences) with sufficient information to allow the police to take appropriate action.’
- 7.14 Four responses had regard to the proposed amendment to extend the life of a vehicle within trade if it meets certain emission standards. Another five responses wanted to increase the age limit of existing vehicles. As these sections have cross over concerns, they will be considered together.
- 7.15 One response considers that we should only extend the life of a vehicle to 20 years if it is 100% electric, as emission criteria is going to get more stringent in time. A vehicle licensed now in 20 years time will be a huge polluter. Peterborough is an Environment Capital and should have a unified approach to sustainable travel. Remove the proposal and replace with 100% electric.
- 7.16 One response states that electric vehicles are expensive to purchase with the current age and mileage restrictions in place. Would like to extend the age a private hire vehicle can enter the trade from the current 6 years to 7 years and would also like to see removal of the mileage policy.
- 7.17 PECT (Peterborough Environmental City Trust) queried the emission criteria within the policy. (For clarification the criteria is matched to Euro 6 standards. Emission standards take into account the weight of the vehicle, so are higher for hackney carriages which are also diesel.) They support the aim of the policy, but consider that emission standards will get higher over time as technology improves, the policy needs future proofing. What is considered LEV now does not mean it will still be classed as LEV in 15/20 years time. Peterborough should be as ambitious as London. (From 1 January 2018 all newly presented vehicles for licensing in London must be zero emission capable).
- 7.18 The PHDF (Peterborough Hackney Drivers Federation) disagree with the timing of the introduction of the low emission proposal (Euro 6 standards), as it is not in the interest of all parties. Would prefer to wait until the TX5 is more freely available at the end of 2018. But would like the committee to consider instead, to apply the extension policy to Euro 5 compliant vehicles, then Euro 6 standards in 2019.
- 7.19 For information, the TX5 is the London Taxi Company zero emission capable hackney carriage. The TX5 is due to be released in London only, in the last quarter of 2017, then available around the world in early 2018.
- 7.20 The TX4 Euro 5 has been available from 2012, the TX4 Euro 6 has been available from 2015, see above for the TX5. Information from The London Taxi Company (who manufacture the TX vehicles) website states;
‘The TX4 Euro 6 compliant means its pollution levels, on average, are 71% cleaner than Euro 5 models and show a 83% reduction in Nitrogen Oxides (NOx)’
- 7.21 The proposal within the draft policy is to extend the life within trade for an extra five years, for vehicles which meet the defining criteria, (Euro 6 standards), to incentivise the trade to purchase lower

emission vehicles.

The responses to the consultation are conflicting, some stating Euro 6 standards are still too polluting to allow to be licensed for 20 years and recommend this should only apply to 100% electric vehicles and others stating it is too ambitious at this time.

- 7.22 In order to adopt the 100% electric vehicle proposal it requires an infrastructure of charging points. There are several types of charging points, standard, fast and rapid. Fast chargers which usually charge a vehicle in 3-4 hours cost approximately £3k. A rapid charger charges 80% in 30 minutes and cost approximately £28k, but should be able to charge 3 vehicles at one time.
- 7.23 Information from Peterborough's Transport and Infrastructure team have confirmed that Peterborough does not currently have any rapid charge points, they are concentrating their efforts on installing fast charges, aimed at visitors parking up for a few hours, with no current plans for rapid chargers.
- 7.24 As licensed drivers are on the roads for long durations, they can be amongst those who are most affected by poor air quality from high emission vehicles.
- 7.25 Members are asked to consider the responses received and determine.
Do members wish to adopt the draft proposal (as detailed on page 16 of the draft policy) and extend the period of licence for purpose built low emission (Euro 6 compliant or better) licensed vehicles for an extra five years, thereby allowing a purpose built Euro 6 (or better) compliant HCV to be licensed up to 20 years old and a purpose built Euro 6 (or better) compliant PHV to be licensed up to 15 years old (from date of first registration) ? Or,
Amend the proposal to,
- a) Only extend the life within trade for five years for vehicles which are zero emission capable? (Currently there are no rapid charge points in place, only fast charge.) Or,
 - b) Keep the proposed policy for PHV's, (or amended as below) but drop the emission standard for HCV's to Euro 5 until 2019, then in 2019 apply the extended life within trade to Euro 6 Or,
 - c) Keep the proposed policy for HCV's, (or as amended above), but allow purpose built low emission PHVs to enter the trade up to 7 years old (currently restricted to a maximum of 6 years old) and remove the mileage restriction. Or,
 - d) Drop the proposal altogether, and not extend the life of a vehicle in the trade based on emission standards?
- 7.26 Three of the responses just requested that the life within trade of HCV's should be extended by five years. (Thereby allow all currently licensed HCV's to be licensed until they are 20 years old from date of first registration). This request, put forward by licensed drivers, is due to the current financial climate and fixed priced fares by the PHV's. It is making it difficult to make a living and afford essentials, and hard and impossible to buy another taxi.
- 7.27 Members are requested to determine.
Consider the responses received from the trade to extend the life in service for hackney carriage vehicles by an extra 5 years, thereby allowing all HCV's to be licensed up to 20 years old from date of first registration?
- 7.28 The PHDF (Peterborough Hackney Drivers Federation) welcome proposals to the change in the current health check to Group 2 health check, but feel that the requirement for submission every three years is excessive and unwarranted and there is no overriding local precedent.
- 7.29 PHDF have provided a list of other local authorities who also require Group 2 health checks, but with varying frequencies. However all require a group 2 health check upon application and annually when the driver reaches 60/65. Some authorities require every 5 years, others require every 5 years when the driver reaches 45 or 55, one requires every 6 years. Two other local authorities require it upon application, then every three years until 65 thereafter annually, which is the same as Peterborough's proposal.
- 7.29 PHDF state that the best practice is aimed at HGV (heavy goods vehicles) and PSV (public service vehicles) and propose an alternative, that Group 2 health checks should be conducted for all new applicants, then at 45, 55, 65 then annually thereafter.
- 7.30 The best practice referred to by the PHDF is from the HSE (Health and Safety Executive). However,

DfT (Department for Transport) Taxi and Private Hire Vehicle Licensing Best Practice Guidance (March 2010) is specifically aimed at the trade. Paragraph 67 of which states *'It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. There is general recognition that it is appropriate for taxi/PHV drivers to have more stringent medical standards ...'*

- 7.30 At the committee meeting on the 8 December 2016, members determined the proposal to request a Group 2 health check for all new applications then every three years upon renewal, then annually thereafter when the driver reaches 65, as it was consistent with DfT best practice guidance and the drivers badge renewal period.
- 7.31 Members are requested to determine
Consider the response from PHDF and determine the frequency required for Group 2 medical checks. The PHDF propose upon application, then at 45, 55, 65 then annually thereafter.
The draft policy proposes upon application then every three years upon renewal, then annually thereafter when the driver reaches 65.
- 7.32 During a meeting with PHDF where the consultation document was discussed, representatives were in support of the introduction of the Part 1 and Part 2 notice required to be displayed in all licensed vehicles, in the interests of public safety. But were concerned with the wording proposed, as it invited only negative comments. The proposed wording in question is *'Please call (insert telephone number) should you have a **complaint** about your journey in this vehicle'*
- 7.33 PHDF proposed an alternative wording which would read *'Should you wish to comment positively or negatively on any aspect of your journey today, please call...'*
- 7.34 Officers agreed with PHDF and agreed to amend the wording in this regard. The Draft policy attached at Appendix 1 has been amended to this effect.

8. OTHER RELATED MATTERS

- 8.1 Members are advised that we are waiting for a response from the Secretary of State regarding the proposed byelaws. When we have received approval from the Secretary of State, the redrafted byelaws will be advertised and consulted upon as is required.
- 8.2 Members are advised that the use of the designated car parks (Wellington Street, Wirrina and Pleasure Fare) for the purpose of allowing private hire vehicles to wait until they are required to proceed to their destination at the appointed time within the city centre, is subject to two director approvals and amendment to the TRO (Traffic Regulation Order).

9. ANTICIPATED OUTCOMES

Members will properly consider the responses and alternative proposals received during the consultation process and make a determination on a direction to adopt for the final policy. Approve the final policy for adoption, subject to amendments, and set the implementation date, which allows for a period of transition over to new conditions and processes.

10. REASONS FOR RECOMMENDATIONS

It is considered best practice by the LGA (Local Government Association) and the DfT (Department of Transport) to have an overarching policy in place. The adoption of an overarching policy will provide clarity for drivers and operators, as well as strengthening the councils position if there is a challenge against a decision in court.

11. ALTERNATIVE OPTIONS CONSIDERED

Retain the status quo

12. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)
Town and Police Clauses Act 1847

13. APPENDICES

- Appendix 1 – Full consultation document
- Appendix 2 – Public notice
- Appendix 3 – Copy of Tweet
- Appendix 4 – List of consultees
- Appendix 5 – Website viewing statistics
- Appendix 6 - Consultation response table
- Appendix 7 – A copy of all responses received in full

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