

Name of meeting: Licensing and Safety Committee

Date: 11th October 2018

Title of report: Kirklees Hackney Carriage and Private Hire Licensing Policy

Purpose of report

To seek approval to consult on:

A new Kirklees Hackney Carriage and Private Hire Policy which includes the following policies developed in partnership with the West Yorkshire Combined Authority:

- the draft policy on the Relevance of Criminal Conduct in Taxi and Private Hire Licensing (Conviction Policy) (Appendix A)
- the draft West Yorkshire Driver Training Policy (Appendix C)

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	No
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Director & name	
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	Yes/ No financial implications If yes give date
Is it also signed off by the Service Director - Legal Governance and Commissioning?	Yes/ No legal implications If yes give date
Cabinet member portfolio	Give name of Portfolio Holder

Electoral wards affected: All

Ward councillors consulted: N/A

Public or private: Public

1. Summary

1.1 Authority is sought for permission to consult on the draft Kirklees policy which includes the convictions policy (Appendix A), driver training policy (Appendix C) and revised standards for testing hackney carriage and private hire vehicle set out in the draft policy.

2. Information required to take a decision

- 2.1 At the meeting of this committee on 18 January 2016, it was reported that policies were being developed by the West Yorkshire authorities and York relating to convictions, driver training and vehicle specification, and that there would be a report to this Committee giving more details and seeking authority to consult.
- 2.2 Over the last two years, officers have been working on a project for approval with the Chairs of the West Yorkshire Licensing Committees (or equivalents), the respective lead member or portfolio holder, and with the support of West Yorkshire Combined Authority. The project's aim was to establish some minimum standards in certain areas of licensing (not necessarily identical policies).
- 2.3 The project has now reached a stage where the fitness and suitability convictions policy and the driver training policy has been agreed with the West Yorkshire authorities in draft as attached. At this time it has not been possible to progress a West Yorkshire common vehicle policy and this will be subject to further discussion between the authorities.
- 2.4 At the same time as the project, Kirklees has developed an overarching policy encompassing all the different aspects of taxi and private hire licensing which is good practice and in which it is proposed that we include the Conviction Policy and Driver Training Policy which are part of the West Yorkshire wide project . Authority is sought to consult on the whole of the Kirklees policy which includes the Conviction Policy and Driver Training Policy at Appendix A and C respectively, which have been developed with the WYCA.

Kirklees Policy

- 2.5 The draft Kirklees policy has been developed and the changes introduced so as to ensure the public can be confident the service is meeting its safeguarding duties, ensuring it is not compromising passenger safety and delivers a much better service for our customers. The policy draws together all current aspects of taxi and private hire licensing setting out required standards, expectations, conditions, processes and relevant policies.
- 2.6 The purpose and vision of the changes is to ensure there is a raising of standards and skills amongst taxi drivers in order to protect the travelling public; and ensure people across West Yorkshire are transported safely and protected from harm; that people in Kirklees experience a high quality, clean, sustainable and green environment, as well as improve the customer experience. This will enhance the workforce and ensure that as a licensing authority we are taking our responsibilities against child sexual exploitation and safeguarding extremely seriously and putting appropriate measures in place.

- 2.7 The service recognises that the majority of taxi drivers do not pose a risk to passengers and there are examples of drivers and operators who aim to provide excellent customer service and a professional service. However, in order to support the Kirklees outcome of ensuring that people in Kirklees feel safe and are protected from harm, in particular ensuring people travel safely across the district, the services statement of intent for its taxi policies, for the next 12 months, is simple and clear.
- 2.8 The main changes within the policy relate to the convictions policy, driver training and revised testing standards for hackney carriages and private hire vehicles. There are two conditions which have been added to the Driver Conditions in Appendix (B) and which support and follow the Department for Transport recommendations in the recent task and finish working group report. These are numbered at 21 and 22 in Appendix B.

Convictions Policy

- 2.9 The draft Conviction Policy (Appendix A) has been developed by considering the existing policies in place across West Yorkshire and York, the Institute of Licensing's Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades. The Local Government Association, Lawyers in Local Government, the Suzy Lamplugh Trust and the National Association of Licensing Enforcement Officers have endorsed the guidance document.
- 2.10 The draft policy gives details of the types of issues including crime and driving convictions that form part of the "fit and proper" test to help councils assess the potential risk to the public. The policy includes a table that indicates the length of time that would normally be required to have elapsed between a conviction and an individual being granted a licence.

Driver Training Policy

- 2.11 The draft Driver Training Policy (Appendix C) has been developed by reviewing current best practice across the individual authorities. As such, the majority of what is proposed is already in place in most authorities, although inevitably there are differences in approach, delivery, resources and costs.
- 2.12 The draft policy details the outline requirements and methods of assessment for each suggested aspect of training, including disability awareness training, which is recommended by the Department of Transport in their Integrated Transport Strategy.

Emissions

- 2.13 The policy includes adopting a revised standard for testing hackney carriage and private hire vehicles. All hackney and private hire vehicles are subject to a compliance test which is additional to the MOT Test and is carried out by the Council to locally developed standards. Tests are

conducted upon first licensing of a vehicle and then annually upon renewal.

- 2.14 The proposal to revise the policy has primarily been influenced by the Council's adoption of the West Yorkshire Low Emissions Strategy 2016-2021. Kirklees signed up to the strategy in December 2016 following its development by West Yorkshire local authorities and Public Health England. The strategy sets out key measures to improve air quality across the region that include the introduction of Clean Air Zones and tackling emissions from buses, lorries and taxis.
- 2.15 In general Air Pollution is improving nationally. However, as with most industrialised towns, cities and urban areas emissions from road transport is increasing as traffic and congestion increases. Hot spots of pollution are created where housing is in close proximity to the heavily used road network. In Kirklees these hot spots or Air Quality Management Areas (the legal definition) have increased from 2 in 2016, to 9 in 2017 and will be 10 in 2018. The pollution in these areas has either increased or not improved in line with the general improvement in Air Quality as the general improvements have been led by reduction in industrial emissions. Kirklees has increased its monitoring networks, which has led to the identification of these hot spots and we keep a watching brief over other areas. The only way to resolve these hot spots of pollution is to reduce emissions from road transport.
- 2.16 Over the years the vehicle manufacture and the type of vehicles the trade would like to use has altered. It would seem timely, therefore to take this opportunity while introducing a Kirklees policy to take the opportunity to review the vehicle testing policy in relation to emissions to ensure it reflects best practice and encourages vehicles of the best possible standards on to the fleet.
- 2.17 In summary the main changes proposed in relation to the vehicle testing standards are set out in the draft policy and are set out below:

(i) Introduction of an Emissions Policy linked to Euro Standards

- 2.18 The Council are looking to encourage the use of low emission vehicles, including electric vehicles. In order to support this the Council are working with West Yorkshire Combined Authority to install a network of electric charging points for electric vehicles to utilise. Kirklees has also signed up to the West Yorkshire Low Emissions Strategy 2016-2021 which has prioritised a reduction in harmful emissions from taxis. The proposed standards will mean that newly licensed vehicles will be compliant with Clean Air Zone (CAZ) Standards, permitting taxis and private hire vehicles to enter CAZ areas such as the one proposed for Leeds in 2019 without charge. Additionally modern engines are more efficient and can therefore achieve the same output as older vehicles with smaller engine capacities.
- 2.19 The proposed policy is that from an agreed date all new vehicles will need to meet Euro 5 standards for petrol engines and Euro 6 standards for diesel engines.

(ii) Removal of the lower age limit

- 2.20 Vehicles must currently be under 6 years old at first licensing. The service currently has an upper age limit of 10 years or 12 years for purpose built hackney carriage vehicles and multi seater/wheelchair accessible vehicles. It is proposed the upper age limit remains and there would be no lower limit. This would mean vehicles older than a 65 plate for diesels and 60 plate for petrol would fail the proposed emissions requirement.
- 2.21 It is proposed the new emissions policy would apply to new applications only and the remaining vehicle specification would remain unchanged for existing vehicles whilst further discussions with the West Yorkshire Authorities are ongoing. However, the proposed emissions policy would apply as vehicles cease to be licensed once they reach the anniversary of their 10 year registration, as such, each year a number of vehicles would have to come onto the licensed fleet that would meet the proposed emissions standards, which would allow constant increase and uptake in the revised standards ensuring a cleaner and greener fleet over the next few years.
- 2.22 The introduction of the revised testing standards would also support the corporate outcome of people in Kirklees experiencing a high quality, clean, sustainable and green environment.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

The Council wants to ensure children have the best start in life and to ensure that the people of Kirklees feel safe and are protected from harm. The Council has a duty to protect the travelling public and safeguard children travelling in licensed vehicles and in particular for the purposes of school transport.

3.4 Reducing demand of services

The changes will also reduce officer time and demands to the service and instead introduce a more streamlined process and improved customer service and efficiency that is more consistent across West Yorkshire

3.5 Other Implications (e.g. legal, financial etc)

Financial

- 3.6 The draft Conviction Policy would replace our existing policy. There would be no additional cost to introduce, other than officer time which will be contained within existing resources.
- 3.7 Driver Training - depending on the results we would approach the training in a different way and use an external provider. However, as this is a ring-fenced budget any additional costs would be passed to the trade as part of the review of fees during 2019/20.

Legal

- 3.8 Taxi and Private hire vehicle licensing in England and Wales is undertaken by licensing authorities, which have the responsibility for ensuring that the public travel in safe, well maintained vehicles driven by competent drivers; as well as providing a fair and reasonable service for the taxi and private hire vehicle trade. Council's following best practice will meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistent and robust in decision making.
- 3.9 By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities. The West Yorkshire Leaders are clear that they wish the Councils to work together for the benefit of the traveling public. All or any policies adopted will need to comply with all applicable and relevant taxi legislation, and of course may be subject to a public law challenge. However, the strands of work identified, and the desire for unanimity across the Combined Authority area are seen as desirable in enhancing the service for the public, and clarifying the standards for taxi and private hire vehicle owners and operators.
- 3.10 The Council already has vehicle testing standards that were introduced under the s47 and s48 of the Local Government (Miscellaneous Provisions) Act 1976 which have been periodically revised. The current proposal is a continuation of the exercise of those powers. The existing trade will have time to comply in accordance with the upper limit vehicle age policy depending on when their vehicles were first registered.

Equality Implications

- 3.11 The Equality Act 2010 creates the Public Sector Equality Duty (PSED) and in order to fulfil the PSED the Council is required to assess the impact of any proposed action on the equality objectives set out above. The way in which the Council approaches this task is to conduct Equality Impact Assessments (EIA).
- 3.12 A stage 1 Equality Impact Assessment has been completed and is available <http://www.kirklees.gov.uk/you-kmc/deliveringServices/impactAssessments/impactassessments.asp>
In summary the assessment is that the level of impact is low although it is acknowledged from day to day contact and interaction with drivers it will impact mainly upon men of Asian ethnic background. The Council will need to ensure that engagement reflects all relevant stakeholder communities.

It has been agreed with the West Yorkshire and York Council's that there is a common law duty to consult on the draft policies that have been developed across the region due to the changes proposed. The position is the same in relation to the Kirklees policy.

The taxi trade are aware of the harmonisation project and have been updated at previous trade meetings. Further updates will be provided at future meetings and they will be invited to respond to the consultation as well as other stakeholders.

4. Consultees and their opinions

The Portfolio Holder and Licensing & Safety Committee Chair is supportive of the draft policy and changes proposed.

5. Next steps

The six participating authorities intend to consult at the same time, however, as governance and consultation arrangements are different in some authorities, consultation is planned to start in November and finish in December and will be for a period of eight weeks.

Full consultation is planned and will include the trade, the public and other, relevant stakeholders. Responses received from across the whole of the West Yorkshire and York authorities will be co-ordinated and shared to inform decision making about the West Yorkshire and York related policies. Responses to the Kirklees specific policy changes will also be reported back

The results will return to the Licensing and Safety Committee in February 2019.

6. Officer recommendations and reasons

- 6.1 That the policies referred to at paragraph 2 be the subject of an eight week consultation as set out above, and responses received by West Yorkshire & York authorities to be considered by Licensing Committee in February 2019.

That the Head of Public Protection is authorised to agree the final approach to consultation alongside the other West Yorkshire and York authorities.

This will contribute to the harmonisation of taxi and private hire licensing policies across the WY&Y authorities.

7. Cabinet portfolio holder recommendation

Cllr Naheed Mather supports the policy review and development of a stronger and more robust policy.

8. Contact officer

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9. Background Papers and History of Decisions

Report to Licensing and Safety Committee – 18 January 2016
<https://democracy.kirklees.gov.uk/documents/s9165/Licensing%20and%20Safety%20002%2018%20Jan%202016%20-%20Constitution%20Taxi%20and%20Private%20Hire%20Vehicles%20-%20Report%20delegat.pdf>

Background Papers: Institute of Licensing – Guidance on determining the suitability of applications and licensees in the hackney and private hire trades

10. Service Director responsible

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