

Do you agree with the proposed change? NO

You cannot have an in between response. Where possible, policies will be consistent throughout West Yorkshire and York, but subject to specific conditions of each authority. Either get together and have one policy or each authority have their own policy. Biggest issue being vehicle conditions and Private Hire Drivers working for more than one operator.

Paragraph 7 currently states:

The standards of safety and suitability are not set as a base minimum. They are set high to give the public the assurance it requires when using taxi services. The Council does not have to strike a balance between the driver's right to work and the public's right to protection. The public are entitled to be protected. This means that the Council is entitled and bound to treat the safety of the public as the paramount consideration.

The proposed paragraph 7 is:

The standards of safety and suitability are not set as a base minimum. They are set high to give the public the assurance it requires when using taxi services. The Council does not have to strike a balance between the driver's right to work and the public's right to protection. The public are entitled to be protected. This means that the Council is entitled and bound to treat the safety of the public as the paramount consideration. The impact on a person's family of losing/not obtaining a licence is not a relevant consideration and therefore is not part of the fit and proper consideration.

Do you agree with the proposed change? NO

The public are entitled to be protected. Unless there are clear and compelling reasons not to, family and well being of the driver must be taken into consideration and each and every policy must be evidence based and not just the opinion of a Licensing Officer/Authority.

Paragraph 9 currently states:

As part of the assessment referred to in paragraph 4 above the Council can consider convictions and cautions but also other outcomes of actions taken by the Police, other agencies and the Civil Courts.

The proposed paragraph 9 is:

As part of the assessment referred to in paragraph 4 above the Council can consider convictions and cautions but also other outcomes of actions taken by the Police, other agencies and the Civil Courts. Other agencies may include (this list is not exhaustive), other licensing authorities, DVSA (Driver and Vehicle Standards Agency), other Local Authority/Government

Do you agree with the proposed change? No

Someone having issues with children's services, not paying child support, littering fine etc. It needs to be specific to the issue. Each offence needs to be clearly identified so that drivers know what standards of behaviour are expected from them.

Paragraph 10 currently states:

Reference to convictions in this policy also includes cautions, warnings, reprimands, all forms of fixed penalty notices, restrictive type orders and any other relevant information. These must be reported to the Council in the format and timescales stated in the relevant policy. In addition, any circumstances relating to the licensee is potentially relevant if it is relevant to their safety and suitability to hold a licence.

The proposed paragraph 10 is:

Reference to convictions in this policy also includes official cautions, warnings, and reprimands, all forms of fixed penalty notices, restrictive type orders and any other relevant information. These must be reported to the Council in the format and timescales stated in the relevant policy. In addition, any circumstances relating to the licensee is potentially relevant if it is relevant to their safety and suitability to hold a licence. The reason for this is so that the Licensing authority has as much information as possible in order for an informed decision to be taken.

Do you agree with the proposed change? NO

Official cautions are OK, I have concerns about fixed penalties, reprimands etc. Need full clarification on these terms or they need to be removed. Fixed penalties do not determine if a person is fit and proper. Need proper clarification of each point so that drivers fully understand what is expected of them.

Paragraph 11 currently states:

Matters which have not resulted in a criminal conviction (whether as a result of an acquittal, a conviction being quashed, a decision not to prosecute or an investigation which is continuing where the individual has been bailed) will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered.

The proposed paragraph 11 is:

Matters which have not resulted in a criminal conviction (whether as a result of an acquittal, a conviction being quashed, a decision not to prosecute or an investigation which is continuing where the individual has been bailed) will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered, this will not automatically result in action being taken against the driver should the complaint be found to be vexatious, false or lacking in evidence.

Do you agree with the proposed change? No

This should be brought in front of the licensing panel/Committee for consideration to make the final decision and not the licensing officers.

Paragraph 15 currently states:

One of the purposes of this policy is to provide guidance to an applicant or existing licence holder on the criteria to be taken into account by the Council when determining whether or not an applicant, or an existing licensee on renewal, is fit & proper to hold a hackney carriage or private hire driver's licence.

The proposed paragraph 15 is:

One of the purposes of this policy is to provide guidance to an applicant or existing licence holder on the criteria to be taken into account by the Council when determining whether or not an applicant, or an existing licensee on renewal, is fit & proper to hold a hackney carriage or private hire driver's licence. There are an extremely wide set of circumstances that the policy must cover so may not cover ever specific circumstance but can be used as a guideline for both prospective applicants and existing licence holders as well as the officers are making a decision. All officers involved in the decision-making process are suitably trained and deemed competent by the Authority and have a duty to ensure that the travelling public can be confident that the drivers licensed by the authority are suitable.

Do you agree with the proposed change? NO

The drivers need clear guidance that they can clearly understand on what is required of them and any decision to refuse or not grant a license should be made by the Licensing Panel or sub committee.

There must be clear and compelling reasons for the Council to depart from this policy. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered exceptional circumstances nor will the impact of losing (or not being granted) a licence on the applicant and/or his family. 3

The proposed paragraph 17 is:

There must be clear and compelling reasons to depart from this policy and the reasons for departure must be justified. As each case is decided on its own individual merits, it is difficult to outline circumstances where a departure from the policy would meet that justification. However, the following are examples of what would not, under normal circumstances be classed as exceptional circumstances, albeit they are still relevant factors and will therefore be taking into account: -

The otherwise good character of a driver / applicant
A clean driving record
Absence of knowledge of wrongdoing

Do you agree with the proposed change? NO

Need to be clear on this point as it is contradictory on one hand saying take previous history into consideration, good conduct, driving etc. on other hand saying no. Licensing panel/sub committee need to be making the decision.

Paragraph 19 currently states:

The Policy will also be applied if any additional issue arises that would call into question a person's suitability to continue to hold a licence. If, an existing licence holder's conduct falls short of the "fit and proper" standard of behaviour at any time, their licence will be revoked.

The proposed paragraph 19 is:

The Policy will also be applied if any additional issue arises that would call into question a person's suitability to continue to hold a licence. If, at any time during the duration of a licence, an existing licence holder's conduct is found to be such that they no longer meet the "fit and proper" standard of behaviour, their licence will be revoked. Each case will be considered on its own merits and any licence holder who is aggrieved by a decision to refuse, suspend or revoke a licence has the right of appeal to the Magistrates Court.

Do you agree with the proposed change? NO

Agree with proposed change but the right of appeal decision should be with the licencing committee/Panel

Paragraph 22 currently states:

Any concerns, issues, incidents, or convictions/offences not covered by this Policy will not prevent the Council from taking them into account.

The proposed paragraph 22 is:

Any concerns, issues, incidents or convictions/offences not covered by this policy will not prevent the Council from taking them into account. Every circumstance is different, and each case will be considered on its own merits and any decision taken is taken by an officer who is suitably trained and deemed competent by the Authority.

Do you agree with the proposed change? NO

Each case should be considered on own merit and by the Licensing panel/committee, NOT the officers

Paragraph 23 currently states:

Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act

1974 (Exceptions) (Amendment) Order 2002, they are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that ALL convictions (including minor motoring convictions and fixed penalty notices) must be declared. The Secretary of State made this exemption because it is necessary to put public safety as the first consideration and to enable the Councils to take a wider view of the applicant over a longer timescale. cf

The proposed paragraph 23 is:

Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, they are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that ALL convictions (including minor motoring convictions and all fixed penalty notices) must be declared. The Secretary of State made this exemption because it is necessary to put public safety as the first consideration and to enable the Councils to take a wider view of the applicant over a longer timescale.

Do you agree with the proposed change? NO

The fixed penalty notice needs to be removed or clarify which fixed penalty notices you are referring to. The final decision for this issues needs to lie with the licencing panel or sub committee.

Paragraph 26 currently states:

The Council is also entitled to use other records and information including any complaints history that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Councils and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.

The proposed paragraph 26 is:

The Council is also entitled to use other records and information including any complaints history that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Councils and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations. All complaints are recorded on the Council's database and document management systems and will remain on file for the duration the licence holder keeps their licence and will be disposed of in line with the council's retention schedule.

Do you agree with the proposed change? NO

The council needs to have a clear complaints policy and criteria which is in a language understandable to everyone. This information must be shared with the drivers. There must be fixed terms for the time each complaint is going to be held on file and the decision must be made by the licensing panel/sub committee whether to revoke the licence or refuse to renew.

Paragraph 27 currently states:

In determining safety and suitability the Council is entitled to take into account all matters concerning that applicant or licensee. This includes not only their behaviour whilst working in the hackney carriage or private hire trade, but also their entire character including, but not limited to, their attitude and temperament.

The proposed paragraph 27 is:

In determining safety and suitability the Council is entitled to take into account all matters concerning that applicant or licensee. This includes not only their behaviour whilst working in the hackney carriage or private hire trade, but also their entire character including, but not limited to, their attitude and temperament. Any person aggrieved by a decision taken has the right of appeal to the Magistrates Court.

The decision of right to appeal should be with the Licensing panel/committee and not licensing officers.

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Paragraph 29 currently states:

It is the responsibility of the applicant/licence holder to satisfy the council that they are a "fit and proper person" to hold a licence. Therefore, the applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council, including any incurred outside the UK. A failure to report such convictions, cautions, warnings, reprimands, all fixed penalties, arrests and summonses will be given significant weighting.

The proposed paragraph 29 states:

It is the responsibility of the applicant/licence holder to satisfy the Council that they are a "fit and proper person" to hold a licence. Therefore, the applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council, including any incurred outside the UK. A failure to report such convictions, cautions, warnings, reprimands, all fixed penalties, arrests, and summonses will be given significant weighting.

Do you agree with the proposed change? NO

I don't agree with the fixed penalties. Need clarification on which fixed penalties you are referring to. If drivers don't understand what offences they need to report how do you expect them to report these offences, if they are reporting totally irrelevant offences then that is a waste of driver and officers time.

Paragraph 30 currently states:

Once a licence has been granted there is a continuing requirement on the part of a licensee to maintain their safety and suitability to meet the "fit and proper" test. The Council has the powers to take action against licence holders and any behaviour, incidents, convictions or other actions on the part of the licensee which would have prevented them from being granted a licence will lead to the licence being revoked.

The proposed paragraph 30 states:

Once a licence has been granted there is a continuing requirement on the part of a licensee to maintain their safety and suitability to meet the "fit and proper" test. The Council has the powers to take action against licence holders and any behaviour, incidents, convictions or other actions on the part of the licensee which would have prevented them from being granted a licence will lead to the licence being revoked. All persons aggrieved by the decision of the council have the right of appeal to the Magistrates Court.

Do you agree with the proposed change? NO

If a person is aggrieved by the decision of the council they should have a right to be presented their grievance to the Licensing Panel/committee.

Paragraph 35 currently states:

The fact that an offence was not committed when the applicant was driving a taxi or when passengers were aboard is irrelevant. Speeding, drink driving and bald tyres are all dangerous, irrespective of the situation. Violence is always serious. A person who has a propensity to violence has that potential in any situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.

The proposed paragraph 35 states:

The fact that an offence was not committed when the applicant was driving a taxi or when passengers were aboard is irrelevant. Speeding, drink driving and bald tyres are all dangerous, irrespective of the situation. Violence is always serious. A person who has a propensity to violence has that potential in any situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault

another sexually has demonstrated completely unacceptable standards of behaviour. Each case will be considered on its own merits.

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Do you agree with the proposed change?

Final decision needs to be made by the licencing panel/committee and not officers. Each case must be assessed on its own merits

Paragraph 39 currently states:

In relation to single convictions Table A sets out the time periods that should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

The proposed paragraph 39 is:

In relation to single convictions Table A sets out the time periods that should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted. Table B sets out the Councils position in relation to minor motoring offences.

Do you agree with the proposed change? No

What is Table B? should this not have been set out in this survey so that respondents can compare the two tables so that that they fully understand what they are commenting on?

Paragraph 52 currently states:

The Council, at its absolute discretion, may determine to meet with the applicant or existing licence holder for the purpose of clarifying information provided or received. The applicant can be accompanied by one individual at the meeting who is not permitted to make comment or enter into any part of the discussion.

The proposed paragraph 52 states:

The Council, at its absolute discretion, may determine to meet with the applicant or existing licence holder for the purpose of clarifying information provided or received. The applicant can be accompanied by one individual at the meeting who is not permitted to make comment or enter into any part of the discussion. The representative is able to ask for the meeting to be adjourned if they feel the applicant or existing licence holder is in need of a break, further clarification, a legal representative or an interpreter.

Do you agree with the proposed change?

Unless its a PACE interview then your representative or trade representative should be able to comment or make representation to gain clarification and ensure proper legal processes and procedures have been followed.

Within Table A of the current policy relating to Minor Traffic or vehicle related offences it currently states:

Minor traffic or vehicle related offences – offences which do not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand held telephone or other device and has not resulted in injury to any person or damage to any property (including vehicles) resulting in 7 or more points on a DVLA licence.

The proposal is to move minor traffic or vehicle related offences to Table B, and it is proposed Table B will state:

Minor Traffic Offences

Minor traffic or vehicle offences do not include offences involving: -

No insurance

Offences which have resulted in injury to any person or damage to any property (including vehicles)

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1. A licence will not normally be granted for new applicants where the minor motoring offences have resulted in 9 or more points being endorsed on their DVLA driving licence. Where an applicant has 7 or 8 current points on their DVLA driving licence, in exceptional circumstances, an application may be granted subject to the applicant completing an additional driver safety assessment as deemed appropriate by the Licensing Authority.
2. For existing licensed drivers where the minor motoring offence(s) has resulted in 6 or less penalty points being endorsed on their DVLA driving licence and fail to notify the licensing authority a warning and advise letter will be issued.
3. Where, as a result of minor traffic or vehicle offences, an existing driver has 7 or 8 penalty points endorsed on their DVLA driving licence they will be required to pass a practical 'hackney carriage / private hire' driving test using one of the Council's approved testers and at their own cost. The driver will be given 3 opportunities to pass the test, failure to pass on the third attempt will result in a review of their hackney carriage / private hire drivers licence and it is likely that they will no longer be considered a 'fit and proper' person to hold a licence.
4. Where as a result of minor traffic or vehicle offences an existing driver obtains 9 or more penalty points on their DVLA driving licence, and has (this list is not exhaustive): -

Previously been required to attend and pass a 'hackney carriage / private hire' practical driving test, or

There are other compounding factors such as failure to declare any of the minor traffic convictions in question, in accordance with the conditions attached to the licence, or

Has received a warning for minor motoring convictions, or

Any other convictions, or

Any other detrimental information recorded against them, i.e. complaints from members of the public about their standard or driving or attitude, etc.

Consideration will be given for the revocation of their licence unless there are any exceptional circumstances as to why revocation should not take place. Each case will be considered on its own merits.

In all other cases where a driver obtains 9 or more penalty points on their DVLA driving licence, and none of the above applies, consideration will be given to send the driver on a 'hackney carriage / private hire' practical driving test, at the cost of the driver and they will receive a final written warning that will remain on their file. Failure to pass the driven test first time, will normally result in the licence being revoked.

5. MS90 Offences – Offences under Section 172 of the Road Traffic Act 1988 – Failure to give information as to identity of driver, will be classed as a minor traffic offence, unless of the balance of probabilities, there is evidence to show the failure to give information was an intentional act to evade points being endorsed on the licence. Where such evidence exists, the offence will be classed as a major traffic offence.

When making the decision on the suitability of a driver who has committed an MS90 offence, the licensing authority will also take into account the underlying offence for which the MS90 was triggered.

Do you agree with the proposed changes? NO

New applicants have 12 or more points then they should not be allowed to have a licence. Anything below 12 they should be allowed providing they pass their advanced driving test. As they are driving around Kirklees anyway.

Point 2 - Need clarification. It doesn't make sense.

Point 3 - Should be 12 points and where they have been banned by the courts. Then this section should apply to the applicant.

Point 4- limit should be 12 points and the decision to suspend, revoke or refuse to renew should be with the licencing panel/committee.

Point 5 - what ever the issues are the final decision needs to lie with the licensing panel or sub committee

Within table A under hackney carriage and private hire offences it currently states:

Hackney carriage and private hire offences.

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The proposed wording for this is:

Hackney carriage and private hire offences. This relates specifically to any offence listed in the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847, and any other legislation that may be brought in relating to hackney carriage and private hire licensing.

Do you agree with the proposed changes? NO

Need clarification on what offences - some may be serious some minor. This needs to be stated clearly so that drivers fully understand the standards expected from them.

Are there any parts of the policy you wish to comment on in addition to those questions already asked? YES

Do you have any other comments in relation to the policy? YES

*Why are you not proposing to have a Licencing sub committee to make all decisions where licences are not being granted, refused or revoked as recommended by DfT.
*Given the length of time and the language used in this survey it is very difficult and time consuming for anyone completing the forms. I would suggest more face to face sessions take place and that drivers are given full explanations on each point in languages that they speak so that justice can be done to this exercise.