

Name of meeting: Cabinet

Date: 18th September 2018

Title of report: Licensing Policy Review Update

Purpose of report

The purpose of this report is to provide an update to members on the review of the licensing policy.

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 Strategic Director & name	Karl Battersby - 7.09.2018
Is it also signed off by the Acting Service - Director - Finance, IT and Transactional Services?	Eamonn Croston - 7.09.2018
Is it also signed off by the Service Director - Legal, Governance and Commissioning?	Julie Muscroft - 7.09.2018
Cabinet member portfolio	Cllr Naheed Mather - Communities and Environment

Electoral wards affected: All

Ward councillors consulted: N/A

Public or private: Public

1. Summary

- 1.1 The purpose of this report is to provide an update to members on the licensing policy review.

2. Information required to take a decision

- 2.1 Kirklees Licensing Service administers and enforces licences in relation to a wide range of licence types ranging from 'taxi's' to licensed premises and street activities. The current review is in relation to taxi licensing in conjunction with the other West Yorkshire Authorities and the City of York.

Taxi Licensing

Recently several high-profile cases have resulted in a pressing need for licensing authorities to ensure passenger safety is not compromised. Both the Jay Report into Child Sexual Exploitation (CSE) in Rotherham and the subsequent Casey inspection and Suzy Lampurgh report have stated the importance of having effective regulatory and enforcement functions in preventing and disrupting child sexual exploitation.

A recent inspection in 2016 by Ofsted in relation to Children's Services highlighted the issue in relation to the safe guarding of children and the local authority's responsibility to protect people, in particular children. This would also be applicable to the service when they are travelling in school transport or licensed vehicles.

Some of the most relevant recommendations are to:

1. *Take urgent action to ensure that all children currently being provided with a service are safeguarded and their welfare is promoted.*
9. *Ensure that all assessments and plans focus on reducing risk and improving children's outcomes, with clearly defined timescales for actions, responsibilities and regular review.*
124. *Ensure that all agencies recognise the indicators and risks factors relating to child sexual exploitation*

The purpose and vision of the changes is to ensure there are consistent agreed minimum expectations relating to standards and skills amongst taxi drivers and vehicle specifications in order to protect the travelling public; and ensure people across West Yorkshire are transported safely and protected from harm 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.

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 Service's statement of intent for its taxi policies, for the next 12-months, is simple and clear.

A review of the service is required in conjunction with the other West Yorkshire Authorities and a programme of change is being implemented, 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.

A summary of the main changes is attached at Appendix A, but in essence the policies that WYCA will be consulting on are a West Yorkshire combined policy on determining the fitness and suitability of applicants and licensees for private hire / hackney carriage drivers, and a West Yorkshire combined policy on driver training. The West Yorkshire combined policy will be adopting the national guidance as drafted by the Institute of Licensing. The changes will encompass the following:

- Review of the convictions guidelines relating to the taxi trade. This review will feed in and influence the current WYCA work on common standards. This will ensure there is common standards for the assessment of a driver being 'fit and proper'.
- Review on how applications are processed, with a view to strengthening the pre-application criteria. This may mean that most of what happens post application moves to pre-application. For example, currently officer's deliver the services 'driver knowledge test'; this requirement could be met in future by a trusted 3rd party conducting the training and it becoming a pre-application criteria, meaning an applicant will have to complete the training before even submitting an application to the Council. This would ensure there is a consistency to a minimum standard across west Yorkshire. The content of this training is likely to be set as part of the joint work being undertaken by the WYCA. It may also mean the applicant would be required to complete the training programme, medical and driven test before the application is made to the service. The final stage would then be submitting an application for a DBS.
- A review of the conditions attached to driver and operator licences, this work will be completed in conjunction with WYCA to ensure, where possible, common standards are achieved across West Yorkshire

Timetable

The policies are currently being drafted and the West Yorkshire Authorities have agreed to have all policies consulted upon and presented to committees for approval before the elections 2019. At the time of writing the date for implementation of these policies was still under discussion within WYCA, a further update will be provided to Cabinet on the 18th September.

The service is intending to present a report at Licensing & Safety committee in October 2018 for approval to consult on the draft policies. The results will be presented to Licensing & Safety committee and Cabinet following consultation in or around January/February 2019, in order to seek final approval.

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 (e.g legal, financial, Human Resources)

The function of licensing is the protection of the public and the licensing authority has an onerous responsibility when making decisions regarding the grant and renewal of licences.

The Equality Act 2010 creates the Public Sector Equality Duty (PSED).

Under section 149 of the Act

(1) A public authority must, in the exercise of its functions, have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are -

age;
disability;
gender reassignment;
pregnancy and maternity;

race;
religion or belief;
sex;
sexual orientation.

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) and this will be completed. It is anticipated that as part of agreeing any new arrangements they will be subject to consultation following appropriate committee approval.

4. Consultees and their opinions

The Portfolio Holder and Licensing & Safety Committee Chair is supportive of the review and changes proposed. Once the West Yorkshire consultation is completed any changes will be consulted upon.

5. Next steps

Officers continue to work collaboratively with the West Yorkshire Harmonisation Project to finalise the draft policies.

To present the draft policy and request approval for consultation at Licensing and Safety Committee by October 2018

6. Officer recommendations and reasons

That Cabinet:-

- i) notes the report and timescales for the work which is included in it.
- ii) approves officers continuing to develop the policy in collaboration with West Yorkshire authorities and brief the portfolio holder and licensing chair regarding the review and timetable for implementation

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

The previous Cabinet report set out in the link below and dated 20th January 2016 includes details of the work being carried out by the West Yorkshire Combined Authority.

<http://democracy.kirklees.gov.uk/documents/s9248/Council%20001%20012016%20-%20Constitution%20Revised%20Scheme%20-%20Report%20officer%20delega...pdf>

10. Service Director responsible

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11. Appendices

Appendix A - Summary of Changes