

Regulatory Committee

28 September 2022

Report title	Consultation on Taxi Licensing Conditions and Guidelines.	
Wards affected	All	
Accountable director	John Roseblade, Director of City Housing and Environment	
Originating service	Licensing	
Accountable employee	Greg Bickerdike	Licensing Manager
	Tel	01902 554030
	Email	Greg.Bickerdike@wolverhampton.gov.uk
Report to be/has been considered by	None.	

Recommendations for decision:

The Regulatory Committee is recommended to:

1. Approve a consultation on the taxi and private hire licence conditions.
2. Approve a consultation on new 'Guidelines for Hackney Carriage and Private Hire Vehicle Proprietors, Drivers and Private Hire Vehicle Operators'.
3. Approve a consultation on the vehicle licence requirements policy.

Recommendation for noting:

The Regulatory Committee is asked to note:

1. That the consultation documents will be updated considering the Department for Transport's anticipated Best Practice Guidance prior to consultation.
2. That equivalent documentation and policies will be consulted on for the licensing function of South Staffordshire Council, which is delegated to City of Wolverhampton Council.

1.0 Purpose

- 1.1 To seek approval for consultation on updated taxi and private hire licence conditions.
- 1.2 To seek approval for consultation on updated 'Guidelines for Hackney Carriage and Private Hire Vehicle Proprietors, Drivers and Private Hire Vehicle Operators'.
- 1.3 To seek approval for consultation on an updated vehicle licence requirements policy

2.0 Background

- 2.1 The Department for Transport consulted on its latest 'Best Practice Guidance'. This consultation ran from 28 March 2022 to 20 June 2022.
- 2.2 In anticipation of the final guidance's publication, pre-emptive approval is sought for a consultation on updated licence conditions, guidelines and vehicle policy.

3.0 Guidelines

- 3.1 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 all drivers and operators are 'fit and proper' persons.
- 3.2 Guidelines for Hackney Carriage and Private Hire Vehicle Proprietors, Drivers and Private Hire Vehicle Operators (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.
- 3.3 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.
- 3.4 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.
- 3.5 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.

4.0 Conditions

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 A draft copy of the Private Hire Driver Licence conditions is included as Appendix 4. A summary of major changes is:
- A. Clarification 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.
- 4.5 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.

5.0 Vehicle Licence Requirements Policy

- 5.1 This policy outlines the normal vehicle licence requirements. The primary changes are to the executive vehicle policy, at the request of the trade. Other changes include

clarification on common questions asked of Licensing Services. A draft copy is included as Appendix 6.

6.0 Consultation

6.1 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.

6.2 The guidelines and conditions will be updated to reflect the final guidance.

6.3 It is proposed to publish the consultation document on the Council's website for 12 weeks. The following will be consulted:

A. All taxi and private hire licence holders

B. The Hackney Carriage Trade Working Group

C. Private Hire Trade Working Group

D. Other licensing authorities

E. Disabled groups

F. Magistrates' Court

G. Institute of Licensing

H. The National Association of Licensing and Enforcement Officers

I. Police forces

7.0 South Staffordshire Council

7.1 Since April 2022, City of Wolverhampton Council has undertaken South Staffordshire Council's hackney carriage and private hire licensing function on its behalf. It is proposed that a consultation of equivalent documentation for the South Staffordshire Council licensing function be undertaken separately, following approval by their committee.

8.0 Financial implications

8.1 The costs of the consultations will be met through existing resources within licencing.

[LD/20092022/V]

9.0 Legal implications

9.1 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.

- 9.2 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.
- 9.3 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.
- 9.4 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
- 9.5 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".

- 9.6 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.
- 9.7 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

- 9.8 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.

- 9.9 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.
- 9.10 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
- 9.11 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.
- 9.12 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.

[DA/13/09/22/1]

10.0 Equalities implications

- 10.1 Nationally, the majority of drivers were male (97%) in 2022. The average age of a driver is 48 years old, with 17% of drivers being aged under 40.
- 10.2 The two main ethnic groups of drivers were White and Asian or Asian British in 2022, making up 41% and 42% of drivers respectively. This compares to 63% and 29% respectively in 2010. There was an increase in the proportion of non-UK nationals working as drivers in England, rising from 13% in 2010 to 23% in 2022.
- 10.3 The updated private hire driver and private hire vehicle operator licence conditions ensure their duties towards disabled passengers are clear.

11.0 All other Implications

- 11.1 There are no other implications.

12.0 Schedule of background papers

- 12.1 20 March 2019 - Non-Statutory Licensing Committee - Proposed amendments to Hackney Carriage and Private Hire Vehicle Conditions
- 12.2 26 September 2018 - Licensing Committee - Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators

13.0 Appendices

- 13.1 Appendix 1: Draft 'Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators'
- 13.2 Appendix 2: Draft 'Hackney Carriage Vehicle Licence Conditions'
- 13.3 Appendix 3: Draft 'Private Hire Vehicle Licence Conditions'
- 13.4 Appendix 4: Draft 'Private Hire Driver Licence Conditions'
- 13.5 Appendix 5: Draft 'Private Hire Vehicle Operator Licence Conditions'
- 13.6 Appendix 6: Draft 'Vehicle Licence Requirements Policy'