



Doncaster Council

Report

Date: 10 December 2020

To the Chair and Members of the Licensing Committee

Hackney Carriage & Private Hire Licensing Policy

EXECUTIVE SUMMARY

1. To request that the members of the Licensing Committee consider the proposed revisions to the Councils Hackney Carriage & Private Hire Licensing Policy ('the Policy') and determine if the revised policy is to be implemented.

EXEMPT REPORT

2. There are no confidential issues.

RECOMMENDATIONS

3. It is recommended that the members of the Licensing Committee consider the content of the revised policy, having regard to the Department for Transport Statutory Taxi & Private Hire Vehicle Standards ('the Statutory Standards').
4. It is recommended that the members of the Licensing Committee consider the responses received during the public consultation of the draft policy.
5. It is recommended that the members of the Licensing Committee determine any amendments to the draft policy.
6. It is recommended that the members specifically determine the following:
 - a. Should the revised policy make it a mandatory requirement for all Doncaster licensed vehicles to be fitted with CCTV, which meets the published specifications? Or, should CCTV in Doncaster licensed vehicles remain as an optional recommendation?
 - b. Should the revised policy limit the age of Doncaster licensed vehicles for both new and renewals? Or, should the age limit remain a

recommendation, meaning that, a vehicle of any age can have a licence granted or renewed provided that it meets all other requirements?

- c. Should the revised policy require Doncaster licensed vehicles to be subject to an emissions limitation? (i.e. the phasing out of high emissions vehicles to allow for a more environmentally friendly fleet). Or, should the use of low emission and 'greener' vehicles be included in the policy as a recommendation?
7. It is recommended that the members of the Committee consider Section 5 of the Statutory Standards with regards to decision making and scheme of delegation and determines if:
 - a. The Taxi Licensing Board Hearing policy (Appendix 18 of the policy) and Delegation (Appendix 19 of the policy) be implemented as drafted or require amendment.
8. It is recommended that the members of the Licensing Committee use their delegated power to adopt the revised policy from 1 April 2021, subject to any amendments the Committee deems appropriate.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

9. The aim of local authority licensing of Hackney Carriage and Private Hire vehicle trades is to protect the public. Doncaster Council is also aware that the public should have reasonable access to Hackney Carriage and Private Hire vehicle services, because of the part they play in local transport provision. Licensing requirements which are unduly stringent will tend, unreasonably, to restrict the supply of Hackney Carriage and Private Hire vehicle services, by putting up the cost of operation or otherwise restricting entry to the trade. Doncaster Council recognises that too restrictive an approach can work against the public interest – and can, indeed, have safety implications.
10. For example, it is clearly important that somebody using a Hackney Carriage or Private Hire vehicle to go home alone late at night should be confident that the driver is 'fit and proper' and that the vehicle is safe. But on the other hand, if the supply of Hackney Carriage or Private Hire vehicles has been unduly constrained by onerous licensing conditions, then that person's safety might be put at risk by having to wait on late-night streets for a Hackney Carriage or Private Hire vehicle to arrive; he or she might even be tempted to enter an unlicensed vehicle with an unlicensed driver illegally plying for hire.
11. Doncaster Council, therefore, wants to be sure that every licensing requirement is in proportion to the risk it aims to address; or to put it another way, whether the cost of a requirement in terms of its effect on the availability of transport to the public is at least matched by the benefit to the public, for example through increased safety.

12. Not all of the changes to the Policy stem from the Statutory Standards. Some revisions have been included to take into account local decisions which are relevant to Doncaster and the surrounding areas.
13. In July 2020, the Department for Transport published the Statutory Taxi & Private Hire Vehicle Standards. Below are 2 paragraphs taken from that document:
14. *(1.3) Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.***
15. *(2.8) Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).*

Section 5 of the Statutory Standards makes a recommendation that individual cases (i.e. where an applicant or licence holder does not meet the requirements of the policy) are decided by a Regulatory Committee or Board of elected members. The Statutory Standards also acknowledges that some local authorities will choose to deviate from this recommendation and allow officers to make these decisions. The Councils current process for these decisions is that the new applicant / existing licence holder attends a panel hearing which is chaired by the Trading Standards & Licensing Manager accompanied by two other department managers or senior officers who are not involved in day to day licensing matters.

After the hearing the panel makes its recommendations to the head of service or assistant director for ratification. All decisions are then open to an appeal at the Magistrates Court where the Trading Standards & Licensing Manager defends the local authority's decision. It is clear that the current process does not meet the recommendations of the Statutory Standards and a change is required.

The revised policy has been drafted so that decisions are not taken by any one individual officer and allows for those who hear the evidence and

question the individual to make a determination based on a unanimous or majority decision.

The 'Taxi Licensing Board Hearing' policy at Appendix 18 and the scheme of 'Delegation' at Appendix 19 of the revised policy shows that elected members will have a majority presence on the Board when these matters are heard and will be supported by the Trading Standards & Licensing manager who will continue to chair the hearing.

It is recognised that this process does not fully comply with the recommendations of the Statutory Standards. However, the compelling reason for this deviation is that this process would allow the for the Trading Standards & Licensing manager to continue to represent the local authority at any court appeal and allow him/her to give evidence as a member of the Board who heard the original evidence and determined the outcome.

This process makes the best use of the Councillors time as it allows them to be key in the decision making process but removes the requirement for them to attend court appeals to give evidence.

BACKGROUND

16. Doncaster Councils Hackney Carriage & Private Hire Licensing Policy was first approved for adoption by Doncaster Council on the 19th January 2012.
17. The Council also resolved to delegate authority to the Licensing Committee to determine future revisions to this Policy.
18. The Department for Transport Statutory Taxi & Private Hire Vehicle Standards document is attached as Appendix A.
19. Following the publication of the above document, the Licensing department conducted an online survey and invited the licensed trade to make comments on the recommendations contained within it. The questions, responses and all unedited comments received are attached as Appendix B.
20. Having regard to the Statutory Taxi & Private Hire Vehicle Standards and the responses to the survey, the revised Policy was drafted as a starting point for the committee to consider and make any amendments as they determine. The revised Policy (version 10.0) is attached as Appendix C.
21. A summary of the changes to the existing Policy is attached at Appendix D.
22. A full consultation of the revised Policy was undertaken. Comments were invited from members of the public and various groups / individuals including:
 - Licensed Hackney Carriage and Private Hire Drivers
 - Licensed Private Hire Operators
 - Hackney Carriage and Private Hire Vehicle Licence Holders
 - Relevant Council Departments including:

- Transport
- Pollution
- Public Health
- Legal
- Education Transport
- Corporate Health & Safety and Training
- Elected Members
- South Yorkshire Police
- South Yorkshire Fire & Rescue
- Taxi Licensing Hearing Panel Members
- Doncaster Safeguarding Children Board
- Pubwatch
- Parish Councils
- Federation of Small Businesses
- Doncaster Chamber
- South Yorkshire Local Authorities
- Changing Lives Charity
- NHS Doncaster
- Age UK
- Hearing Dogs for Deaf People
- The Partially Sighted Society
- RNIB
- South Yorkshire Passenger Transport Executive
- GMB - Sheffield South Yorkshire Taxi Branch
- Campaign for Better Transport

23. The questions, responses and all unedited comments received during the consultation are attached at Appendix E.

OPTIONS CONSIDERED

24. Option 1 - Have regard to the Department for Transport Statutory Taxi & Private Hire Vehicle Standards, consider the consultation responses and determine to adopt Version 10.0 of the Hackney Carriage & Private Hire Licensing Policy from 1 April 2021. This is the recommended option.
25. Option 2 – Continue with the existing Policy unchanged.

REASONS FOR RECOMMENDED OPTION

26. The Statutory Standards are clear that unless there is a compelling local reason not to, it is expected that the recommendations are implemented. If the Policy is not updated it could result in the Authority being seen as the 'easy option' to obtain a license for those with convictions who would not meet the minimum standards of neighbouring authorities.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

27.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>It is recognised that licensed vehicles, drivers and operators are a source of employment, businesses and assets to the community.</p> <p>The overriding consideration is the protection of the public.</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>It is recognised that licensed vehicles are used by people to travel within the borough and beyond, transporting people to and from school, work and places of leisure.</p> <p>The overriding consideration is the protection of the public.</p>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	<p>None</p>

	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>It is recognised that licensed vehicles can often be the only source of transport accessible to persons who are considered to be vulnerable.</p> <p>The overriding consideration is the protection of the public.</p>
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>None</p>

RISKS AND ASSUMPTIONS

28. Section 2.8 of the Statutory Standards states *'Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence'*.

LEGAL IMPLICATIONS MCC 26 11 20

29. Section 177 of The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. The Statutory Taxi & Private Hire Vehicle Standards published in July 2020 ("2020 Guidance") does not replace the Best Practice Guidance issued in 2010, but where the 2 conflict, the 2020 Guidance should take precedence.

The 2020 Guidance states at paragraph 1.3, that “The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to”.

Elected members are advised that when considering the recommendations in this report, they must conscientiously take into account the results of the consultation and, where appropriate, having due regard to any impact on equality issues.

In considering the proposals contained within this report, Elected Members are reminded of their obligations under section 149 Equality Act 2010. This section contains the Public Sector Equality Duty (PSED) which obliges public authorities, when exercising their functions, to have ‘due regard’ to the need to:

- a) Eliminate discrimination, harassment and victimisation and other conduct which the Act prohibits;
- b) advance equality of opportunity between people who share relevant protected characteristics and those who do not; and
- c) foster good relations between people who share relevant protected characteristics and those who do not.

Protected characteristics are age, gender, disability, race, sex, sexual orientation, gender reassignment, religion or belief and pregnancy and maternity. Only the first aim of the PSED set out in paragraph (a) above applies to a further protected characteristic of marriage and civil partnership.

Having due regard to advancing equality involves: -

- Removing or minimising disadvantages suffered by people due to their protected characteristic;
- taking steps to meet the needs of people from protected groups where they are different to the needs of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Elected members must consciously consider and have due regard to the three aims of the general equality duty when dealing with the recommendations contained within this report.

FINANCIAL IMPLICATIONS [RT ... 26/11/20...]

30. Any additional costs that arise as a result of this decision will be met from the additional income generated through the application fee.

HUMAN RESOURCES IMPLICATIONS [Officer Initials DK Date 20/11/2020]

31. There are no direct HR Implications in relation to the Taxi Policy Report and the proposal to adopt the new version.

TECHNOLOGY IMPLICATIONS [Officer Initials ...PW Date ...20/11/20]

32. There are no anticipated technology implications in relation to this report

HEALTH IMPLICATIONS [Officer Initials CT ... Date 24.11.20...]

33. The key role of licensing authorities is to ensure a safe and effective local taxi and PHV service. However, it is important for councils to consider the potential impact of mandating CCTV on privacy and demonstrate through a Data Protection Impact Assessment that the approach to how / when CCTV systems are required to be used strikes a proportionate balance between privacy and safeguarding. The response from the survey showed a higher proportion of the public surveyed were in favour compared to the response from the Licensed Trade but the response numbers on both sides are quite low compared to some of the other questions asked. Decision makers will want to ensure wider consultation has taken place and that there is a detailed implementation plan
34. Public Health is supportive of a vehicle emissions policy to protect drivers, passengers, other road users and pedestrians. It also makes for a cleaner environment where people might be more keen to travel actively. The inclusion of a policy which governs the phasing out of high emissions vehicles to allow for a more environmentally friendly fleet will benefit the drivers, residents and positively impact on the climate.
35. With regard to the age of the vehicle, Public Health would want the cleanest form of transport available in line with an emissions policy. If the vehicle can meet the policy and is safe then Public Health would not want to discriminate against the hire of older vehicles which are quite often hired for specific events.

EQUALITY IMPLICATIONS [Officer Initials DDS Date 18/11/2020]

36. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic.
37. The publishing of a list of wheelchair accessible vehicles is a positive equality measure as its aim is to protect the rights of passengers who are also wheelchair users.

38. The existing policy requires any new applicant who has not lived in the UK for the previous 5 years to evidence their good conduct while living abroad. It is acknowledged that the proposed change to the policy to require all new applicants and existing licence holders to evidence their good conduct if they have spent 3 months or more outside of the UK at any time from the age of 18, will impact those persons who were born outside of the UK and/or have family living outside of the UK. However, this change is a recommendation of the Statutory Standards and it is recognised that the purpose is to satisfy the authority that all reasonable steps have been taken to ensure that the safety of the public is maintained.
39. There are no other specific equality implications arising from this report.

CONSULTATION

40. A 2 week survey took place with the licensed trade in September 2020 a full consultation took place for 4 weeks during October and November 2020. The consultees are detailed earlier in this report.

BACKGROUND PAPERS

41. Department for Transport Statutory Taxi & Private Hire Vehicle Standards.
42. Doncaster Council Hackney Carriage & Private Hire Licensing Policy.

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