



**AGENDA ITEM:**

Report for:	Licensing and Health & Safety Enforcement Committee
Date of meeting:	20 April 2021
PART:	I
If Part II, reason:	

Title of report:	<b>Draft Taxi and Private Hire Licensing Policy – Consultation outcome</b>
Contact:	Nathan March - Licensing Team Leader
Purpose of report:	To report on the consultation outcome of the draft policy and to seek agreement of the policy, with or without amendments following consideration of the consultation responses and officer comments.
Recommendations	To approve and adopt the policy, with any necessary amendments.  To approve proposed timescales for implementation of new requirements as laid out in the report.
Corporate objectives:	<ul style="list-style-type: none"> <li>• A clean, safe and enjoyable environment</li> <li>• Building strong and vibrant communities</li> <li>• Ensuring economic growth and prosperity</li> <li>• Ensuring efficient, effective and modern service delivery</li> </ul>
Implications:	<p>Equalities Implications</p> <p>A full Equalities impact assessment has been completed and is available.</p> <p>Financial / Value for Money / Risk / Health And Safety Implications</p>

	<p>Financial</p> <p>The draft policy includes a variety of changes which will affect both the trade, and the work that officers are required to do, some of these will reduce the cost to the Council in providing the service, others will have increasing cost implications, and there is also an opportunity for additional cost recovery. Overall it is expected that the Policy changes will be close to cost neutral, and any changes will be considered when fees are set for the relevant licences.</p> <p>Value for Money</p> <p>The new policy brings a collection of the Council's existing guidance documents together into one policy, this will reduce the Committee burden when considering any future reviews. The Policy also seeks to increase the efficiency of the Council's work in this area of licensing so that an improved service can be provided at a lower cost.</p> <p>Risk</p> <p>The Policy seeks to reduce risk to the public and also to the reputation of the Council as it strengthens the requirements on applicants and existing licence holders, as well as improves the practices of the Council when carrying out its regulatory function for these licences.</p>
Consultees:	<p>The existing licensed trade were consulted with, the consultation will be carried out directly with the individual licence holders, as well as with the Trade Association.</p> <p>A wider consultation was also undertaken so that members of the public had an opportunity to respond.</p>
Background papers:	
Glossary of acronyms and any other abbreviations used in this report:	

## 1. BACKGROUND

- 1.1. This report is to advise Members of the outcome of the consultation for the draft revised Taxi and Private Hire Licensing Policy attached as Appendix 1.
- 1.2. The consultation ran from 9 September 2020 to 4 January 2021, an additional 4 weeks following agreement of the Chair of the Committee in order to allow further promotion of the consultation via the Council's Dacorum Digest, responses are attached as Appendix 2.

- 1.3. The agreement to go to consultation on the policy was made by the Committee just prior to the pandemic. The consultation was delayed as a result of the Covid 19 outbreak, partly as resources were focused on assisting the licensees across various regimes to understand the impact of the virus and restrictions on their work, as well as developing the licensing services in order to cope with the changing approach that has had to be adopted to continue to provide a service in this time.
- 1.4. However, once these things were in place, it was agreed that the consultation should take place, rather than being put on hold until the pandemic had passed. This is due to there being a significant number of important changes that needed to be introduced as soon as reasonably possible to ensure that the Council's policies in regards to this area of licensing remain fit in light of how the trade, and issues that affect the trade and wider community, have developed since the existing guidance and standards had been reviewed.
- 1.5. It is also notable that The Department for Transport released its new statutory guidance for local authorities during the course of the pandemic, and has expected that local licensing authorities make progress on adopting new standards which reflect the expected standards described in the guidance (the guidance is attached as Appendix 3), a large proportion of the proposed changes to be introduced as part of the Council's new policy closely reflect what the DfT has advised is expected.
- 1.6. It is also the case that other consultations have continued to take place during the pandemic, as a balance has been achieved in terms of adjusting services to cope with the additional pressure of working through a pandemic, and also seeking to maintain as much 'business as usual' as possible in this time.
- 1.7. The duration of this consultation was 16 weeks, which is 4 weeks longer than the normal expected duration for a significant change to policy. During the consultation 67 responses were received, which is a large number of consultation responses in comparison to what the Council normally receives for similar licensing consultations. Taking all this into account, whilst a large number of the responses received proposed that the consultation should not have taken place until the pandemic had passed, this does not appear to be a suitable or appropriate approach to have taken. However, some of the sections of the draft policy do include set timescales for introduction of new standards, and these will need to be reconsidered, taking into account the time that it has taken to bring the policy to the Committee, and the impact that Covid 19 has had on the trade.
- 1.8. The Department for Transport has released new guidance titled "Statutory Taxi & Private Hire Vehicle Standards" attached as Appendix 3 and it is essential that the Council gives full consideration of the standards laid out in this document. This has been checked against the draft policy, and the policy is not at odds with the standards, and should the policy be adopted, The Council will be meeting nearly all of the Department for Transport's expected standards.
- 1.9. There are some inconsistencies with the numbering of sections and paragraphs in the attached draft of the policy, these have been left as they were to enable easier cross referencing of the comments received during the consultation and will be updated as part of the finalisation of the document when all additions and changes have been completed.

1.10. Given that the draft policy has previously been agreed by the Committee, only sections that have been referred to within consultation responses should be considered for amendments

## 2. KEY MATTERS ARISING THROUGH CONSULTATION

2.1. The following section pulls out the key matters that were raised in response to the consultation, but is not comprehensive, and additional matters appear within the full consultation responses attached, which the Committee may wish to consider when finalising the policy.

### 2.2. Emissions

- The section on the policy that proposes new emissions was the most significant matter in terms of responses to the consultation.
- The original proposal was as follows:

*The Council has, along with many other councils in the UK, declared that there is a current and future climate change emergency that requires urgent planning and action, one of the agreed plans of the Council is to ensure all services make the maximum possible impact in challenging the extent and causes of climate change.*

**At first application** – Vehicles must meet or exceed Euro 5 emissions standards (From 01/04/2021 vehicles must meet or exceed Euro 6 emissions standards at first application.)

**At renewal** – From 01/04/2021 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 5 emissions standards. From 01/04/2023 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 6 emissions standards.

*By 2025 all vehicles will be expected to meet an electric/hybrid standard*

*Where vehicles do not meet the relevant emissions criteria the proprietor may:*

- *have the vehicle adapted / modified to meet the standard and provide evidence of this*
- *change the fuel that is used to a cleaner alternative, such as bio diesel or*
- *replace the vehicle with one that meets the emission standard.*

#### **When will the different criteria be applied?**

*If the licence of a currently licensed Hackney Carriage or Private Hire Vehicle is allowed to EXPIRE by its proprietor then any subsequent application will NOT be considered as a renewal. This means that where an existing vehicle licence expires, a subsequent application for a licence for that vehicle will be treated as a first time application and the standards and criteria relating to first time applications will be applied.*

*For the avoidance of doubt when a new vehicle has an existing plate transferred onto it the vehicle will be considered under the emissions criteria for a vehicle being licensed for the first time.*

- The responses to the consultation in regards to this part of the policy are broadly shared views from the trade which can be summarised as stating that this policy is uneconomical for the trade, especially in regards to the pandemic and the impact that this has had on the trade.
- There is some confusion from some of the responses where the individuals have interpreted that they must buy new vehicles every few years, whereas the policy allows a stepped approach towards electric vehicles. It is likely that the most economical approach for licensees would be to purchase an electric vehicle as soon as possible, to be future proofed against the stepped changes that the policy may introduce, but alternative approaches may also be available, but this would be for the individual licensees to investigate.
- Given that the Council has declared a climate emergency, the Committee must consider the appropriate balance between protecting the climate in whatever way it can, and supporting the local trade by ensuring that any finalised policy is workable for individual licensees.
- The Government has recently brought forward requirements for all new built vehicles to be electric by 2030, but there will still be a large second hand market and exiting vehicles on the roads. Given that the Council has declared a climate emergency, it may be considered inappropriate to simply follow the Governments timelines for all vehicles, when the Council is able to have policies in place much sooner to start to have a positive impact on the emissions its licensed vehicles are responsible for.
- Some responses have highlighted concerns around infrastructure for charging of electric vehicles, this is a legitimate concern and it is recognised that much needs to be done to improve this around Dacorum, however, this work is currently taking place, and so the situation is expected to be much different by the time any requirements comes in for fully electric vehicles, so long as this isn't immediate. Such a requirement could also help to focus some of the infrastructure on improved provision for charging in places that will be accessible to licensed vehicles as part of their normal work routines. The policy only requires all vehicles to be at least hybrid, within the set timescales, so this does mitigate against any infrastructure issues making the use of fully electric vehicles difficult for the licensed trade.
- Given the delay in the policy introduction, and the impact of coronavirus. It is proposed whilst the emissions requirements and the stepped approach remains in place as agreed by the Committee when the policy was laid in draft, an additional 24 months be added to each steps, with the exception of any brand new vehicle licences issues (as opposed to renewal of existing plates). This would mean the following:

***At first application*** – Vehicles must meet or exceed Euro 6 emissions standards

***At renewal*** – From 01/04/2023 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 5 emissions standards. From 01/04/2025 vehicle licences will not be renewed in respect of any licensed vehicle that does not meet or exceed Euro 6 emissions standards.

*By 2027 all vehicles will be expected to meet an electric/hybrid standard*

*Where vehicles do not meet the relevant emissions criteria the proprietor may:*

- *have the vehicle adapted / modified to meet the standard and provide evidence of this*
- *change the fuel that is used to a cleaner alternative, such as bio diesel or*
- *replace the vehicle with one that meets the emission standard.*

***When will the different criteria be applied?***

*If the licence of a currently licensed Hackney Carriage or Private Hire Vehicle is allowed to EXPIRE by its proprietor then any subsequent application will NOT be considered as a renewal. This means that where an existing vehicle licences expires, a subsequent application for a licence for that vehicle will be treated as a first time application and the standards and criteria relating to first time applications will be applied.*

*For the avoidance of doubt when a new vehicle has an existing plate transferred onto it the vehicle will be considered under the emissions criteria for a vehicle being licensed for the first time.*

- 2.3. The generic response from many of the trade has pointed to adaptations/modifications not being possible for existing vehicles. Whilst this is currently understood to be the case, having this clause in the policy does future proof it in case such modifications were to become available, and would benefit the trade as would ensure there was not a need for these modifications to be considered by the committee, rather than simply having the licence issued by the Licensing team.
- 2.4. One of the responses specifically refers to a minimum of annual checks against driver criminal records, the Statutory Taxi & Private Hire Vehicle Standards places an expectation on the licensing authority to carry out these checks every six months. This is not a change to the draft policy, as the policy simply requires drivers to be signed up to the update service, but it is proposed that this be included so that drivers are aware of the timescale, and also that if they are not signed up to the update service, a six monthly check will be expected in any case, which will be costly if they do not sign up to the update service.
- 2.5. One response suggested that saloons should be phased out for taxis, with black cabs being encouraged due to being more disability friendly. The Council already has a requirement for new vehicles to be wheelchair accessible, and this is not being removed as part of the new policy.
- 2.6. A response from Sue Prowse, Improvement and Engagement Projects Lead Officer The Council Strategic Housing team made several points for consideration:

- Support for the new DBS requirements, and the removal of temporary licences
- A suggestion about communication of the policy changes taking into account that many drivers are Pakistani/Bangladeshi
- A suggestion of a communication strategy over a wide range of services and venues where BAME drivers are likely to be reached
- Concerns about section 1 of the policy not being relevant to licensing.

With regards to the general issue of communication with drivers, as part of obtaining a licence drivers must prove to have a good level of English, so the Council would expect them to be able to understand any communication in English to an acceptable level. Drivers whose English is not at an acceptable standard could be required by the Licensing committee to obtain an acceptable standard if this led to issues with their licence, and this is in line with them being considered 'fit and proper' to hold a licence.

The Licensing team communicates with drivers in a variety of ways, and a key method is the e-Newsletter which they are encouraged to sign up to. As part of obtaining a licence individuals are committing to maintain their knowledge of the relevant legislation and local policy that they must comply with. Whilst the Licensing team will do its best to assist in communicating any changes, the responsibility must remain with any person holding a licence.

The final point made about section 1 of the policy is an interesting one. It is surprising that this is not felt to be relevant to the licensing of the taxi and private hire trade. The section covers details of the borough generally and describes the population demographics, geography, and touches on the local economy and leisure provision, all of which are intrinsically linked to the work of the licensed trade, so are relevant to individuals who may be considering working as a licensee in our borough.

## 2.7. Training requirements

The response numbered as 7 in Appendix 2 expresses concerns about the standard of training given and action taken in regards to disability and specifically the requirements around assistance dogs. The draft policy refers to disability training being required as part of obtaining a licence, but does not go into specific details of what will be provided. Training will be tailored over time, and will certainly include information of legal responsibility of drivers, so the concerns raised will be addressed as part of any training, but this would not be covered in detail in a policy such as the draft policy that is being presented. The draft policy does detail the laws in regards to assistance dogs in Section 7.

## 2.8. General concerns from the trade

Responses 10 and 17 in Appendix 3 are duplicate letters that have been drafted and signed by 115 members of the trade. Some matters have been dealt with already but those that haven't have been addressed below:

- Point 4 of the letter is inaccurate as the policy section referred to is an accurate reflection of the legal standing of policies and guidance, and an appropriate approach that the council should be expected to take.

- Point 5 suggests that the Council should chase applicants for missing aspects of their application. This would take away responsibility from the applicants, and place more emphasis on use of council resources to chase for documents, which is not considered to be the appropriate given limited resources, and an expectation that applicants should be capable of providing the relevant documents required without the Licensing team having to 'hand-hold' applicants through the process.
- Point 6 in the response is in support of the section it says it is against, as section 5.5 merely makes it clear that the Assistant Director has delegated powers to suspend or revoke drivers with immediate effect should any criminality become apparent on renewal.
- Point 7 in the response is already the case, and the draft policy has been amended to make this clear.
- Point 8 refers to support from the trade for temporary licences, whilst it is recognised that applicants could be delayed if other failures happen outside of their control, the priority for the council must be public safety, and issuing temporary licences goes directly against this responsibility as we would be issuing licences to individuals who we cannot be certain are fit and proper. The issue of delays from the DBS is addressed in any case by the introduction of the requirement for these to be kept updated.
- Point 9 is inaccurate as the response refers to the Rehabilitation of Offenders Act, which is not relevant when determining taxi applications as it is an exempt occupation in this regard. The section referred to is also not simply referring to offences, but any reason for an application being refused, which is something that the Council has a wide discretion over. It is correct that 4.2 and 13.5 were at odds. 13.5 has been updated to reflect the same requirement as 4.2
- Point 10 suggest that the council should not take action against a licensee unless they are charged with an offence and that arrests or similar are immaterial, this is strongly rebutted, whilst the Council must not presume guilt ahead of any investigation outcome, it must protect the public, and it is considered good practice that any individual who the police have sufficient concerns about in involvement in an offence should have their licence status considered at that time in order to protect the public.
- Point 11 Suggests introducing a percentage of wheelchair accessible vehicles, rather than all taxis being required to be wheelchair accessible. With such a low number of wheelchair accessible vehicles on the fleet at the moment a requirement to be wheelchair accessible is considered the right approach to increase this at this time, but can be reviewed in the future should the council receive concerns from the public that there are too many of these, and insufficient saloon style taxis available. Section 7.5 in the policy makes this clear.
- Point 12 refers to section 7.7 and no consideration to disposal of offences, section 7.7 actually only makes it clear that the maximum fine for offences could be, which it is important that licensees are aware of.



- Point 13 – suggests that once a year is sufficient for lifting equipment to be checked, the policy currently states every 6 months as this is in line with what the Health and Safety Executive’s Guidance on the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER), which all drivers would need to follow in any event. This does not have to be provided to the Council unless requested.
- Point 14 matches Point 12, so no change is suggested as it is important that licensees understand the potential consequences of actions
- Point 15 para 8.8 is considered to be illogical, however, a hackney carriage is always a hackney carriage, so purely carrying out pre-booked work does not make it a private hire as suggested by the response. other than for journeys beginning or ending outside of the borough, the fare can never be higher than the meter, even if agreed in advance, so it is appropriate for the meter to be kept on so that customers can see what a metered fare would be for their journey. Drivers can charge less than the metered fare, so the only cause of dispute would be higher fares for passengers travelling outside of the borough, and it is suggested that they should be fully aware that they are due to pay over what they would normally pay if this is the case, so the meter provides useful information to them as a customer.
- Point 16 suggests the Council should do demand testing in order to restrict the number of vehicles it licenses as hackney carriages (private hire cannot be restricted). It is estimated that the cost of such required surveys is at least around £10k and required at least 3 yearly, this cost would need to be included in the fees for the vehicles (which there are around 213 hackney carriages). Given that Private Hire Vehicles can’t be restricted, it does not seem to be of any particular value to increase the cost of hackney licences for this purpose.
- Point 17 is wrong as it has been shown that it is perfectly legitimate of the Council to retrospectively apply any new policies.
- Point 18 a paragraph has been added at the start of this section to clarify that it is normally the case that only new applicants are required to take knowledge tests, but that they are available as an option for existing drivers should the Council consider this appropriate.
- Point 19 suggests that technology negates the need for any local knowledge. The Councils view has for a long time held the view that local knowledge is useful irrelevant of any technology that may be available, give various potential issues with such technology.
- Point 20 is in line with the proposed policy
- Point 21 refers to provision of safeguarding and disability training being provided by ‘various’ providers to aid consistency. It can be argued that consistency is better achieved through one provider, however this is not relevant to the policy as the policy does not detail how training will be delivered, this will be a matter for the Licensing team should the policy come in, and at that point suitable options will need to be identified.

- Point 22 presents a view that the administration of tests and banning of retaking is too harsh, but gives no explanation as to why this view is held. Failing to comply with the instructions of an officer administering a test is a serious matter when applicants are expected to be fit and proper, so a 'harsh' length of time before being able to retake can be considered appropriate.
- Point 23 the Council has required a minimum of 3 years driving experience as a holder of a full licence, before becoming a licensed driver, the Council is within its right to consider that a driver will be safer with more experience, and lowering this to 12 months would represent a backwards step in safety. The response claims there is no evidence supporting this, but has not provide evidence to the contrary.
- Point 24 this point is in relation to is in relation to the Council taking into account any relevant information about the individual applicant from current and existing licences held by them either with Dacorum, or other authorities. This is considered reasonable in order to ensure they are fit and proper, and the point made in the response is unclear as to what the concern was from the respondent.
- Point 25 the response suggests that the Council should only consider 'unspent' history of applicants and drivers. The Council is entitled to consider any history of an individual to determine whether it can be confident that an individual is fit and proper to hold a licence, irrelevant of how old such history is. It is for the Council to then consider how much weight is given to any such history when determining an application, and the amount of time passed since an event took place will be a significant part of this consideration, however, it remains appropriate that the Council should be aware of such history.
- Point 26 The response requests that individuals are removed from the NR3 database (refusals and revocations) on death. As there would be no value to them appearing on this database if they have died, they would need to be removed to comply with data protection principles, the only barrier to this would be if the Council is aware they have passed away.
- Point 27 refers to drivers turning their engine off whilst waiting and a time limit of 1 minute, after which they should have the engine switched off. The response suggests that this is unreasonable. However, 1 minute is longer than it seems when you are actively doing something, and the reality is that a driver is likely to know if they are immediately getting a new fare or not and if not should be stopping their engine. Enforcement of such an expectation would always be approached reasonably (in line with the Councils enforcement policy). It is considered to be important to have a specific expectation within the policy in order to be clear and transparent as to what is expected.
- Point 31 requests that Hackney Carriages do not have to have their roof sign on when they are not working to prevent potential customers from thinking the vehicle is on duty. This cannot be allowed to be the case as the roof sign forms part of the livery of the licensed vehicle, and the vehicle is permanently licensed once the licence is issued, so must maintain all livery at all times, whether it is being used for work or domestically. Only licensed

drivers can licensed vehicles (so if their partner does not hold a licence they cannot use the vehicle for domestic journeys), and drivers behaviour is relevant whether they are working or not, so vehicles should always be liveried fully when in use. There is a variety of case law that supports this.

- Point 32 of the response claims that Annex A is disproportionate. Annex A is the guidance on suitability of applicants. The majority of this is in line with national guidance that has been developed by the Institute of Licensing using the significant experience of the most eminent individuals in the field of Licensing, and any areas that are stricter than that guidance are in line with what the Council already had in place previously. The Guidance from the IoL has been widely adopted by licensing authorities, and is the closest thing to 'national minimum standards' available in this area, which helps to improve the standard of the trade generally, and aides with improved consistency across the country. If the Council were to agree that this is disproportionate, we would be stating that we expect lower standards than any authority that has adopted these standards.

2.9. In addition to sharing some of the concerns already dressed above Response 42:

- was supportive of the combined single policy replacing individual guidance and standards, and the aim for more online services.
- raises concerns about there being no grace period for applicants, and the potential for the Council to be responsible for delays in dealing with applications and this being a 'two way' process. Applicants are entitled to make a complaint about the service provided should the Council's Licensing team be responsible. However, experience has shown that it is highly infrequent for licences to be delayed as a result of the failures of the Licensing team. Whilst the proposal is to remove the formal grace periods, to prevent every application that is late from appearing in front of committee for determination (which will delay applicants further), it is considered appropriate that the Licensing Team leader be delegated responsibility for considering any mitigation provided as to why an application is late, together with consideration of how late it is, so that late renewals can be issued by officers rather than the committee if considered appropriate to do so.
- Safeguarding training will be introduced as part of the policy when finalised, the respondent asks whether it is appropriate to require this on renewal, and suggests that it could be carried out as a one off on application, or could be provided as refresher training. It is considered that it is important for licensees to receive this training, and to receive it more than as a one off, but it may be possible to develop training that is less intensive for those who have previously been through the full training. It is suggested that this is left with the Licensing team to develop as the policy is not an appropriate document to include the level of detail about what the training will consist of.

2.10. Response 51 questions whether a 6 monthly MoT is necessary, with reduced mileage and their own vehicle never failing a MoT despite it being more than 10 years old. This is an existing requirement that has not been

changes as part of the policy review. Given the pandemic and the other changes in the draft policy (such as the emissions section), it is considered that this may be an issue that should be revisited in the future once the policy has been finalised.

### **3. Matters raised not relevant to the policy and consultation**

- 3.1. The Taxi rank locations have been raised as an issue and one reason for a decline in earnings for the trade. The location of taxi ranks is dealt with outside of these policies, which are about the required standards for licensees, so this is not a relevant issue for consideration.
- 3.2. Cross border working - where companies like Uber who are licensed outside of Dacorum work within our area legally – is raised as a concern. These concerns should be addressed to Government as this is due to the existing legislation which the Council is unable to effect through policy, so these are not relevant to the policy consultation.
- 3.3. Unlicensed individuals and companies are raised as concerns, as are licensed trade operating in an illegal manner. These issues are unaffected by the policy changes, and the Council carries out enforcement in these situations, as guided by the Council's enforcement policy. Therefore these matters are not relevant to the consultation and new policy.

### **4. Modern slavery**

- 4.1. Outside of the consultation period the Licensing team were contacted by the Hertfordshire Modern Slavery Partnership and a request was made to include an additional section which is attached as Appendix 3. This has been amended by the Licensing Team Leader in order to make it more suitable for the policy, taking into account knowledge of how the trade works in Dacorum.
- 4.2. This section simply advises of legal requirements on operators and suggests how these should be met, given that this does not add additional local burden constructed by the Council, it is considered that there should be no reason why this shouldn't be added if Members agree to this, despite it being provided outside of the consultation on the new policy.

### **5. RECOMMENDATIONS**

It is recommended that:

1. the Committee consider the consultation responses, together with the draft policy and suggested amendments in the version attached as Appendix 1. Agree any amendments to the policy that are considered appropriate following reviewing the responses and details of this report.
2. the finalised policy is agreed, once changes have been made and confirmed with the Chair of the Committee, and can be adopted once this is the case.
3. The Licensing Team Leader to have delegated responsibility for the practical elements of the new policy such as the establishment of suitable safeguarding

and disability training, and changes to systems where necessary to facilitate the full adoption of any new requirements within the policy.

4. The Assistant Director (Corporate and Contracted Services) to be delegated responsibility for agreeing any additional charges from licensees resulting from policy changes (such as training costs).
5. the changes that are required to processes and requirements to be effected in line with the agreed timetable attached as Appendix 4