

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 7 October 2014

Subject: Outcomes of the Licensing Committee Working Group (WG) formed to examine the policies of:-

- Vehicle age criteria – 5/6/7 seater Hackney Carriage wheelchair accessible vehicles (WAV's)
- Immediate suspension policy – plying for hire
- Taxi & Private Hire Licensing decision making framework

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. During the lifetime of the previous year's Licensing Committee (2013 – 14) and the existing Licensing Committee particular issues have been raised to Members either in their role as a Licensing Committee Member or on a constituency basis. Those subjects are set out above.
2. A WG was formed to enable its Members to consult with the Hackney Carriage (HC) trade, the Private Hire (PH) trade and Officers so that the relevant existing policies could be comprehensively reviewed in more detail with the benefit of first hand consultation and to make recommendations to the full Licensing Committee.
3. The WG has met with, and listened to, the trades representative bodies and their recommendations are set out below. The detail considered for each of those areas leading to the recommendations is set out in the body of the report.

4. Some other matters have been raised by the trade and for completeness are included in this report for information purposes only. The two areas concerned will be the subject of full reports to Licensing Committee.

Recommendations:-

Relating to vehicle age criteria 5/6/7 seater WAV's.

1. The age criteria for WG for 5/6/7 seater HC WAV's be increased to extend the licensable life from 10 years to 12 years from the date of first registration.
2. Between years 10 and 12 of the licence, that vehicle must be formally inspected at least twice per year by the Council.
3. That those WAV's currently licensed to carry 5/6/7 seater passengers will have a condition placed upon their licence which prevents the proprietor licensing a replacement WAV on that proprietor's licence which has a passenger capacity of less than 5 passenger seats at any time, including the transfer of the licence.
4. The extended vehicle inspection policy should remain with the 8 year starting point as in the existing policy.
5. That the existing age criteria policy in respect of all other vehicles and other issues in the existing policy should remain unchanged.

Relating to immediate suspension for plying for hire

6. That there is no change to the public safety perspective of the Council to protect vulnerable women and children in particular, and Licensing Committee Members recognise the importance of retaining the existing policy of immediate suspensions on plying for hire as contributing to public safety and safeguarding issues.
7. That on the second conviction, or caution, for plying for hire that the existing threshold of 3 years before the grant of a licence would be considered, be extended to 4 years.
8. In the event of a third conviction or caution for plying for hire that the Council should take a strong stance on the grounds of public safety and resist such a further application but may take into account any significant factors put forward by such an applicant.
9. That Officers issue further information to both trades on the policy, highlight the change and re-enforce to the trade the consequences of plying for hire.

Relating to Taxi & Private Hire Licensing Decision Making Framework

10. Members continue to approve policy and direct that Officers continue to make decisions on policy relative to their positions and experience within the scheme of delegation.

11. That Officers prepare an information guide for Members illustrating the options available to Officers when making decisions around suspensions, revocations, refusals to licence, training requirements on existing licence holders and prosecutions so they can be more informed when dealing with constituents enquiries.

Relating to other matters raised to the WG – PHV Bonnet stickers and web based Taxi & Private Hire Licensing enforcement and decisions results page

12. That Members note the information in this report and that full reports on these two issues will be presented for their consideration at a date to be agreed by the Chair of Licensing Committee.

1 Purpose of this report

1.1 To inform full Licensing Committee of the recommendations of a WG formed to more closely examine the previously approved policies in respect of:-

- 1) WAV's age criteria for 5/6/7 passenger seat vehicle.
- 2) Immediate suspensions policy – plying for hire.
- 3) Taxi & Private Hire Licensing decision making framework.
- 4) To inform Members of other issues raised in the WG – bonnet stickers on PHV's and developing a web based Taxi & Private Hire Licensing enforcement and decisions page.

2 Background information

2.1 The Council already has existing policies in respect of 'Vehicle age criteria' and an immediate suspensions policy.

2.2 The existing policies in respect of the vehicle 'age criteria' were established in 2009, and it is fair to say there was extensive consultation on them before formal approval by the Licensing and Regulatory Panel.

The policies were further reviewed by the Licensing Committee and approved in January 2013.

2.3 In undertaking these WG reviews, Members of the WG met on:

10 April 2014

7 May 2014

17 June 2014

12 September 2014

In the WG meeting on 10 April 2014, adopted a structured approach to developing the key issues and information required.

In the meetings of 7 May 2014 and 17 June 2014 the Members met with and consulted with the trades representatives, unions and Operators.

In the final meeting on 12 September 2014 the Members of the WG listened to Officers and rationalised all of the information from their consultation, legal issues, public safety concerns and the needs and responsibilities of the city.

3 Main issues

Vehicle Age Criteria

- 3.1 The Council already has a vehicle age criteria policy in respect of all licensed vehicles covered by the Local Government (Miscellaneous Provisions) Act 1976 and Town and Police Clauses Act, 1847. The current policy on the age limits of such vehicles is set out below;
- Saloon vehicles – Up to 10 years with extended testing starting at 7 years.
- WAV's - Up to 10 years with extended testing starting at 8 years.
- 3.2 Trade representatives have put forward convincing arguments about the cost of purchase and the running costs of 5/6/7 passenger seat WAV's comparable to saloons and 4 seater WAV's and how important the larger WAV's are to the HC trade and the city itself. The supportive argument to retain 5/6/7 seater WAV's was exemplified with references to their capability to:
- Move more people on one journey from the night time economy.
 - Good for business people in groups who can travel together in one vehicle when arriving in the city
 - Beneficial to families of wheelchair users who need to travel with more than one passenger and luggage.
 - Financial savings to the travelling public in not having to use two smaller vehicles.
 - Beneficial to the HC trade as a whole in helping to secure contracts and retain contracts where this size vehicles is desirable or required.
- 3.3 These arguments, presented by the trade, resonated with Members and Officers and led WG Members to conclude that not only was it desirable for the trade to retain the larger 5/6/7 seater WAV's but that it was also very important to the Council to be able to provide a variety of appropriately sized vehicles to the travelling public.
- 3.4 The WG Members understanding of the HC trade representations was that the application was in the best interests of the city and the travelling public, financially viable for the trade and not just an attempt to get a few years extra licensable life before changing to a smaller vehicle.
- 3.5 The WG recommendation to the Licensing Committee regarding the extent to which a new age criteria might be applied (12 years) was a suggestion from the trade, although a further trade view was it should be extended to 15 years. Members appreciated the volume and type of work undertaken by the HC trade and considered that the public safety interests, the comfort of

passengers along with the condition of the fleet and its representation of the city were best met by only extending the age criteria to 12 years.

- 3.6 WG Members also thought that the extended examination starting point should remain at 8 years and that at 10 years the 5/6/7 seater WAV's should be formally inspected at least twice a year by the Council.
- 3.7 WG Members also heard from Officers about concerns that the original intention of the Licensing Committee in requiring a service history prior to an age extension being granted had become diluted by trade arguments of who is accredited to carry out such servicing and repairs and what 'servicing' means.
- 3.8 To remove all doubt WG Member pointed to the public safety duty of the Council which applies to vehicle safety as much as to the 'fit and proper person' test and along with its environmental responsibilities considered that a maximum life span of 12 years was the most appropriate.
- 3.9 During the consultation with both the HC and PH trades, Members discussed the age criteria for saloon vehicles and, although not on the formal agenda for the WG, thought they had heard sufficient information from the trade and statistical information from Officers concerning the improvement in the saloon fleet since the introduction of the existing policy that they should also recommend that there be no change to the age criteria policy in respect of saloon vehicles. Members had a clear recollection of how the saloon fleet was prior to the existing policy and added they did not want it to regress or become a significant safety issue again.
- 3.10 Again, whilst not on the formal agenda the WG reflected on the strength and reasoning of the trade representatives arguments and considered there was no substantial reason to change the vehicle age criteria in respect of 4 seater passenger WAV's. Licensing Committee Members are reminded that both of those policies were previously considered as recently as January 2013.

Immediate suspension policy – plying for hire

- 3.11 WG Members focused on the immediate suspensions aspect of the policy. They heard polarised views from the trades, but many views of the HC & PH trade were the same; that a robust policy was a necessity and that members should consider strengthening it. At the other end of the scale it was agreed that there should be no such suspension and that Council 'fines' should be imposed instead.
- 3.12 WG Members recalled that there was an early review mechanism by a more senior Officer in place to double check on-street decisions as well as staged reviews of case progress by Principal Officers. It was also noted that the Section Head intervened in a number of cases to direct different disposal outcomes as alternative measures to Court prosecution or revocation of licences.

- 3.13 WG Members thought that it would be helpful to the trade if the costs of appeals to the Magistrates Court were highlighted in a newsletter so drivers understand the availability of low or no-cost appeals. It is proposed this will be dealt with in a newsletter by Officers.
- 3.14 WG Members concluded that the whole purpose of the immediate suspension policy was based on a significant public safety basis and had been extensively publicised to the trades. It was a deliberate course of action by drivers who plied for hire and the motivation might not always be on an entirely 'commercial' basis and there was justification in retaining the policy to protect lone women and contribute to safeguarding issues.

Taxi & Private Hire Licensing decision making framework

- 3.15 In respect of the Council's Constitutional decision making framework, Licensing Committee Members had previously expressed some supportive views for the existing decision making framework but wanted more detailed consideration of the issues.
- 3.16 WG Members had discussions on the subject and were also privy to concerns expressed within the Council regarding child protection and grooming issues and recognised the benefits of a clear separation of the roles of Member representation and decision making in such a sensitive arena.
- 3.17 The WG Members were aware of the bi-annual reporting arrangements of Officer decisions to Licensing Committee and the significant experience of senior officers in the Section and how they regularly apply discretion. The framework is also reported to the Corporate Governance and Audit Committee as a significant part of the Annual Assurance Report on decision making across the Council.
- 3.18 The WG Members considered that the existing decision making arrangements were appropriate and that case by case issues could be explained to any Council Member or be the subject of more detailed enquiry by the Licensing Committee Chair.
- 3.19 Members did request that an information sheet be prepared for them so they have a greater awareness of the options open to consideration by Officers. This will be prepared shortly and distributed to Members and also form part of the future training to Licensing Committee Members.

Other matters raised to the WG – PHV Bonnet stickers and web based Taxi & Private Hire Licensing enforcement and decisions results page.

- 3.20 In the discussions with the trades there were many issues raised, most of which would be dealt with at forums or by discussions with Officers. However, there are two matters which are consistently raised and worthy of full discussion at a later Licensing Committee.
- 3.21 Bonnet stickers: – a trade proposal that the optional bonnet livery (licence number and company name) should be made compulsory to assist in

customers getting into correct vehicles further discourage plying for hire and enabling easier CCTV identification.

- 3.22 Web based Taxi & Private Hire Licensing enforcement and decisions results page: – In effect, publishing the names, badge numbers and postal area (not the whole postcode) of those prosecuted or revoked as is the case with some other Authorities, notably Birmingham.
- 3.23 Officers will prepare detailed reports later in the year for Members to consider those two issues and ask at this stage the issues are only noted.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 WG Members met with and had full engagement with HC & PH trade representatives and had knowledge of some personal experiences of issues raised by constituents to the Members outside of the WG.
- 4.1.2 Licensing Committee will recall that in addition to this consultation there was a three month public and trade consultation period when these policies were comprehensively reviewed in 2013.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 A full equality impact assessment has been completed and is available as a background document.

4.3 Council policies and City Priorities

- 4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.32 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.4 Resources and value for money

4.4.1 The policies under discussion in this report are already 'live' with the exception of the additional inspections on 10 – 12 year old HCV's. Those additional inspections can be accommodated. It is intended to change those additional inspection fees at the standard rate of £30 and not the higher rate of £80 for the extended inspection.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The existing policies have been the subject of previous legal overview and the only areas to need re-visiting are the extension proposal to the age criteria for 5/6/7 seater WAV's. Considering this is a relaxation of the policy in terms of the age it is considered there is minimal risk to challenge.

4.5.2 An appeal against the introduction of such a policy would be by way of Judicial Review. Considering the strong statements of trade representatives it is felt unlikely that there would be such an appeal.

4.6 Risk Management

4.6.1 The potential for deterioration in the capacity of the 5/6/7 seater wheelchair accessible fleet has been recognised by the trade, Members and Officers and it is felt that the policy proposal is proportionate to meet the potential risk to the licensed fleet's capacity to meet all of the diverse passenger needs.

5 Conclusions

5.1 These are not proposals for sweeping changes and are based upon existing policies and practice. They have been widely consulted on and generally are responsive to the licensed trade views.

- 5.2 WG Members were keen to point out that the trade should not continually try to unpick approved policies and they should have a clear understanding of the public safety necessity in maintaining achievable standards in licensing policy.
- 5.3 WG Members were satisfied that the existing policies and practices were fair, strong and defensible with accountability built in.

6 Recommendations

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Relating to other matters raised to the WG – PHV Bonnet stickers and web based Taxi & Private Hire Licensing enforcement and decisions results page

12. That Members note the information in this report and undertake to deal with the decision those making process at a later date.

7 Background documents¹

- 7.1 Dft Best Practice guidance
- 7.2 Immediate suspension policy
- 7.3 Vehicle Age Criteria policy(ies)
- 7.4 Constitution – Scheme of delegation

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.