

Report of Chief Officer, Elections and Regulatory

Report to Licensing Committee

Date: 6 November 2018

Subject: Recommendations of Leeds City Council working group – Driver Conditions

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 This report updates Licensing Committee on the recommendations for the following revised driver conditions following a working group earlier in 2018.
 - A guide to obtaining a licence
 - Standard conditions attached to a private hire drivers licence
 - Standard conditions attached to a private hire executive driver licence
 - Standard conditions attached to a private hire stretched limousine driver's licence
 - Conditions attached to a private hire novelty trike drivers licence
 - Three year licence policy
 - Medical exemption policy
 - Plying for hire policy
- 2 The working group recommendations were the subject of consultation during June and July 2018.
- 3 The revised draft guidance to applying for or renewing a driver licence has been prepared, following the consultation. The guidance also includes reference to the Local Government Association / National Anti Fraud Network (LGA/NAFN) database of refused and revoked licence holders.

Recommendations

1. That members note the information in this report.
2. That members recommend for approval the proposed changes to the policies.

1 Purpose of this report

- 1.1 To inform committee members of the draft revised policies and guidance to applying for or renewing a driver licence, following a working group, a consultation, and guidance from the LGA/NAFN.
- 1.2 To highlight to committee members the areas where the council's current policies, conditions and guidance will be changed should the proposed changes be approved.

2 Background information

- 2.1 Leeds City Council has responsibility for licensing Hackney Carriage (taxi) vehicles, drivers and proprietors, Private Hire and Executive vehicles, drivers, and operators within the city. The council's primary focus is the safety of the travelling public.
- 2.2 The council has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976, which governs the licensing of Private Hire Vehicles, Private Hire Operators and drivers. The adoption of this act also encompasses the adoption of the Town Police Clauses Act 1847, which governs the licensing of Hackney Carriages.
- 2.3 The council's policies and conditions are proposed and reviewed by the council's Licensing Committee. The council's policies and conditions apply to all drivers, vehicles and operators who hold the relevant licences issued by the council. The council's Taxi & Private Hire Licensing team are responsible for making decisions relating to the application of the policies and conditions, under the council's scheme of sub-delegation.
- 2.4 Committee members will be aware that the UK taxi and private hire industry is rapidly changing, although much taxi and private hire law has changed little since the 1970s. In order to continue to keep the travelling public safe, the council's policies and conditions also need to keep pace with new developments, particularly the rise of cross border working (drivers and vehicles licensed in one area and working predominantly in another), the growth in use of smartphone apps enabling customers to book and pay for journeys. The council has a plan to review and consult on each of the specific policies and conditions after either three or five years, to make sure they remain up to date and effective.
- 2.5 In October 2017, Licensing Committee approved a plan to review the many (more than 40) policies and conditions relating to taxi and private hire licensing in the following themes:
 - Update and simplification of **driver** policies and conditions (12 driver policies, conditions and guidance);
 - Update and simplification of **vehicle** policies and conditions (11 vehicle policies, conditions and guidance);
 - Update and simplification of **operator and proprietor** policies and conditions (5 operator/proprietor policies, conditions and guidance);

- **Safeguarding and safety** policies and conditions (15 policies, conditions and guidance);
- **Harmonisation** of some policies and conditions across West Yorkshire and City of York to narrow the gap between different authorities and for more effective cross-border enforcement;
- Development of a **Clean Air Zone** for public health reasons in Leeds and its implications for taxi and private hire vehicles; and
- Update and simplification of taxi and private hire licensing **application and renewal forms** in preparation for development of online forms and paper free case management systems.

2.6 The first of the working groups met between January and April 2018. The contributors to the working group were drawn from a wide range of stakeholders, listed below. The contributors were invited to attend and/or contribute to the working group because it was believed that their different perspectives and experiences could help inform the development of revised or new policies and conditions:

- Councillors;
- Driver's groups/trade union;
- Disabled people/passengers;
- Hackney carriage associations/trade union;
- Older people/passengers;
- Operators (private hire companies);
- Staff; and
- West Yorkshire & York taxi and private hire harmonisation project;

2.7 In addition, extra meetings were held with West Yorkshire Police, Leeds City Council Highways and Leeds City Council Parking Enforcement, to discuss areas of concern raised at the first working group, but not within the scope of the policy review:

- Bus lanes;
- Bus stops and parking enforcement;
- Safe pick up and drop off locations in Leeds city centre; and
- Stone throwing at taxi and private hire vehicles.

2.8 The recommendations of the working group were then the subject of consultation with the Taxi and Private Hire trade and the public during June and July 2018.

2.9 The council received guidance from the LGA about how a national database of refused and revoked licence holders would be used. The guidance is attached at **Appendix 2**.

3 Main issues

Driver Conditions

3.1 The council's seven policies for drivers were reviewed. A revised set of policies, prefaced with a new guide to applicants if the recommendations were to be adopted are shown at **Appendix 1**.

- A guide to obtaining a licence
- Standard conditions attached to a private hire drivers licence
- Standard conditions attached to a private hire executive driver licence
- Standard conditions attached to a private hire stretched limousine driver's licence
- Conditions attached to a private hire novelty trike drivers licence
- Three year licence policy
- Medical exemption policy
- Plying for hire policy

3.2 No major changes to the driver conditions are recommended.

3.3 A number of comparatively minor changes are recommended.

- **Medical circumstances** – added link to gov.uk webpage on medical rules for all drivers.
- **Requirement to report convictions and associated incidents** – added 'any Police interview'. One consultation response questioned this addition, see the table of responses in 3.7.
- **Conduct of driver** – added 'e-cigarettes and vaping' to list of not smoking in the licensed vehicle. Added 'headset or Bluetooth' to list of devices only to be used in emergency circumstances. One consultation response questioned this addition, see the table of responses in 3.7.
- **Passenger** – added link to more clearly explain the gov.uk car seat rules.
- **Fare to be demanded** – added reference to 'operator's approved GPS device'.
- **Lost property**– added note for lost items to be delivered by drivers to Elland Road Police Station. One consultation response questioned this addition, see the table of responses in section 3.7.
- **Three year driver licences**– the additional requirement for five years' good service could be removed, the council could now comply with the requirement in the Deregulation Act 2015 for standard three year licences, now that all drivers had valid and up to date enhanced DBS checks and had attended CSE Safeguarding training.

3.4 Two areas were discussed, but ultimately not recommended.

- **Driver licences / change of operator**– there was some detailed discussion about this matter, and a strong difference of opinion.
 - The council had received a number of requests from drivers asking if they could work for more than one operator, as they were sometimes not earning enough from working for one operator. The current policy

makes reference to 'The Operator' in sections of the Driver Conditions, implicitly stating that drivers could only work for one operator. The working group heard that some other councils, such as Bradford MDC, allow drivers to work for more than one operator, but no more than two operators, and displaying dual livery for both operators on the vehicles. The working group heard that the council's focus on passenger safety states that vehicle livery should be very clear and unambiguous and permanently fixed to the vehicle (i.e. not attached via magnetic strips which clip on and off). Representatives from one driver's group/union on the working group stated that by restricting the ability of a driver to work for more than one operator, the council was siding with operators against drivers.

- If the council were to consider relaxing the condition and allow a driver to work for more than one operator, it would not be possible for the driver to use the same vehicle and have either dual livery or temporary livery. The working group heard that for drivers wishing to supplement their income, school contracts could be an alternative source of employment. The councillors on the working group responded stating that the safety of the public is paramount, in this case, to know who the operator is for each vehicle, and to avoid two passengers booking the same vehicle via different operators.
- **Intended use** – there was some detailed discussion about this matter. A representative of one of the Hackney Carriage Associations had proposed a new drivers condition for drivers to promise to work predominantly in the licensed area (i.e. in the Leeds district), with further recommendations for this to be reflected in the Operators' conditions later in the policy review process.
 - A majority of the working group largely agreed that excessive cross-border working undermines local licensing training and standards, and some delegates thought it would be a positive step to be able to discourage excessive cross-border working by Leeds drivers in other districts if other authorities would be able to develop similar policies to restrict cross-border working. During the period of the working group, Knowsley MBC lost two appeals by different private hire operators in the High Court in Manchester, where a judgement determined that drivers, vehicles and operators licensed in one district can work regularly legally in another district.
 - Some delegates suggested that additional conditions could be consider in the working group for Operator Conditions, although some argued that this would be a difficult policy to implement without the law being changed, and the council should continue to lobby central government for changes to the law.

Consultation

- 3.5 The council undertook consultation from 26 June to 23 July 2018. The following methods were used:

- Publication of the working group report on the consultation web page: <https://www.leeds.gov.uk/business/taxi-and-private-hire-consultation>;
 - Hard copies of the fee report at the council offices at Merrion House and Civic Hall;
 - Information on screens at 225 York Road to encourage responses; and
 - Email to all 6300 licence holders.
- 3.6 The consultation overlapped with the consultation on proposed changes to taxi and private hire licensing fees, so the as the subject was also discussed at the September trade meetings with the Hackney carriage forum, the Private Hire Operators and Private Hire Drivers.
- 3.7 The council received only three responses, shown in the table below, together with a reply to each response

Response	Council reply
<p>On the section of car seats its parents responsibility to safely have the child strapped in baby seat according to guidelines from Government transport section.</p> <p>Also you would like to report all interviews with police to LCC regardless of reason or outcome so LCC as a racist and a bullying licensing section which is known in trade of taking bribes to take authorised action on indefensible BAME Community.</p>	<p>Thank you for your response to our consultation.</p> <p>Yes, we agree with you that the council is proposing car seats for children wholly in line with Department for Transport guidance.</p> <p>The council is proposing to require all drivers to report to LCC any interview held with the police. We would emphasise that this does not mean that a driver's licence would be suspended or revoked immediately. We still find regularly that a number of drivers fail to report driving penalties, arrests and cautions to us, and then claim that they were not aware they had to report anything until they were arrested or charged. The new policy would make it clear that any interview has to be reported.</p> <p>The police and the council are carrying out detailed investigations into the allegations of bribery, and will report on the findings.</p>

Response	Council reply
<p>I don't think this is right unless you have a committee of local councillors or trade who decide the fate of individual not licensing section then it will work this is to protect individuals human rights and right to provide food on table for the family Kind regards.</p>	<p>Leeds City Council's decision making scheme places the responsibility on officers, not councillors, and definitely not trade members, to make decisions. Such decisions are required by law to be wholly based on public safety and must not take into account the personal or family circumstances of licence holders.</p>
<p>Lost property: I do not understand why the licensing department are wanting me to drop off lost property at Leeds Elland Road Police Station? I totally disagree that onus should be on me to pass lost property to Elland road. At a time when when we are thinking of introducing a clean air zone in Leeds and reducing our carbon footprint, we now have to go ten miles from our usual place of business to Elland Road. There has never been an issue with this before. Please explain to us in future correspondence why you are doing this? And if you must go ahead why not Otley Police Station, Why not Bradford Police Station or any other police station? I as an individual have found it easier to drop lost property off at my base and the client will come and pick it up in their own time? This is a condition which should be imposed solely on hackney carriage drivers not private hire drivers. As hackney carriage drivers work independently and private hire work for an operator. I look forward to your response Yours Sincerely</p>	<p>Thank you for your reply to the consultation.</p> <p>The recommendation was to replace the wording 'nearest police station' with Elland Road Police Station to provide absolute clarity to drivers, operators and passengers, including passengers who are not familiar with the geography of Leeds.</p> <p>The council received fewer than ten complaints in each of the last two years (out of more than 1000) from passengers about lost property, so we agree with you that not many people are complaining to the council about lost property. However, when a driver may find lost property may be hours or days after the journey, and the impact is considerable on a person who has lost their property, but cannot work out where they lost it, and who they should go to. They may have to check at many police stations, not knowing which one would be nearest to the driver when he or she found the lost property.</p> <p>We would be prepared to revert to the condition stating the 'nearest police station' in cases where drivers have taken the passenger out of Leeds, and the nearest police station is likely to be more likely to</p>

Response	Council reply
	be the location a passenger with lost property would go to.
<p>I am typing this email in regards to the proposed changes to our licensing conditions. More so the condition where we are not being allowed to make any social calls when we are at work. Even our prison system in this country isn't as strict as this council is trying to be by imposing this condition upon us. People who do all kinds of jobs in the retail or public sector are allowed to make calls. So not being allowed to make any calls to friends or family whilst at work is frankly ludicrous. This is undoubtedly from the hackney carriage industry who have always been against the private hire industry always under the impression we are taking their work despite us being fully booked. We are not criminals and have passed the fit and proper person test per your DBS disclosure service. Our private hire firm is well established and does not allow so called pirating. I never make social calls whilst carrying fare paying passengers and if I receive a call whilst carrying one, I politely ask the passenger if I may answer this call and tell the caller that I will call back as soon as possible, rather than let the phone ring. This condition should not be imposed unnecessarily upon us and we are fully against any such conditions which don't allow us any kind of freedom to not keep in touch with our family. Yours truly</p>	<p>Thank you for your reply to the consultation.</p> <p>The council has had the policy to require drivers not to use mobile phones while driving for several years.</p> <p>The policy has only changed in relation to adding blue tooth headsets or earphones to the list of devices drivers may not use when driving.</p> <p>The law is summarised on the following web page: https://www.gov.uk/using-mobile-phones-when-driving-the-law</p> <p>You must stay in full control of your vehicle at all times. The police can stop you if they think you're not in control because you're distracted and you can be prosecuted.</p> <p>The law still applies to you if you're:</p> <ul style="list-style-type: none"> • stopped at traffic lights • queuing in traffic • supervising a learner driver <p>When you can use a hand-held phone</p> <p>You can use a hand-held phone if either of these apply:</p> <ul style="list-style-type: none"> • you're safely parked • you need to call 999 or 112 in an emergency and it's unsafe or impractical to stop.

Response	Council reply
	<p>Penalties</p> <p>You can get 6 penalty points and a £200 fine if you use a hand-held phone when driving. You'll also lose your licence if you passed your driving test in the last 2 years.</p> <p>You can get 3 penalty points if you don't have a full view of the road and traffic ahead or proper control of the vehicle.</p> <p>You can also be taken to court where you can:</p> <ul style="list-style-type: none"> • be banned from driving or riding • get a maximum fine of £1,000 (£2,500 if you're driving a lorry or bus) <p>We will be clear in the policy to state that you can use those devices when you are safely parked, but they must not be used in any other circumstances.</p>

Guidance on database of refused and revoked licence holders

- 3.8 The council received guidance from the LGA / NAFN relating to how a national database of refused and revoked licences should work. The guidance is attached at **Appendix 2**.
- 3.9 The guidance recommends that councils revise their existing policies and letters to add reference to licence holders that should their licence be refused or revoked, their details will be passed on to the national database and may be used by other councils, should they seek to be licensed elsewhere. The guidance was received by the council after the working group and the consultation, however, the draft policies in **Appendix 1** have been updated to make reference to the LGA / NAFN database, and the remaining application and renewal forms will be updated.
- 3.10 The guidance is supplied for information to committee members, who will note that it places strong requirements on local authorities to inform licence holders

that their information may be used, and on the use of information viewed in the database.

Implementation

- 3.11 Depending on the recommendations and suggestions from committee members, the new policies would be implemented within several weeks, most likely to take effect at the start of January 2019. This would give the council the time to let the current licence holders know of the implementation date, and remove old guidance.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The proposed changes follow a working group exercise during 2018, and a consultation in June and July 2018.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The driver conditions review has been subject to an equality and diversity, cohesion and integration screening, and has not found a significant or disproportionate impact. See **Appendix 3**.

4.3 Council policies and City Priorities

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

Best Council Plan 2018/19 – 20/21

Towards being an Efficient and 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; and
- 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; and
- Improving customer satisfaction.

4.3.2 The Council's Taxi & Private Hire Licensing policies contribute to the following priorities: -

- Reduce crime levels and their impact across Leeds;
- Effectively tackle and reduce anti-social behaviour in communities; and
- Safeguarding children and vulnerable adults:

4.3.3 Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.4 There are no resource or value for money issues to consider. There will be a positive resource implication of putting three year licences into practice, if they result in fewer visits to the licensing office. However, there will be associated costs of additional complaints or queries about breaches of licensing conditions, and checking the national database.

4.4.5 It should be noted that the Taxi and Private Hire Licensing service is cost neutral to the Council and by virtue of the Local Government (Miscellaneous Provisions) Act, 1976, raises its own revenue by setting fees to meet the cost of issuing and administering licenses. This means that any additional costs associated with the proposals will be funded via license fees and will not place additional pressure on the council's budget.

4.5 Legal Implications, Access to Information and Call In

4.5.1 There are no legal implications arising from these proposals and they are not subject to call in or publication.

4.6 Risk Management

4.6.1 The report recommendations are aimed at reducing the risk to passengers posed by current or future licenced drivers.

5 Conclusions

- 5.1 The council has made good progress in improving the safety of the travelling public in Leeds. However, we will only make further improvements if we continue to review our policies, work more closely with neighbouring authorities, and in line with emerging national best practice.
- 5.2 This report details several areas where the existing driver conditions can be updated to improve passenger safety and public confidence.

6 Recommendations

- 6.1 That members note the information in this report.
- 6.2 That members recommend for approval the proposed changes to the policies.

7 Background documents

None

Appendices

Appendix 1 Draft Private Hire Driver Guidance and Policies

Appendix 2 LGA guidance for local authorities on national database

Appendix 3 Equality and Diversity Cohesion and Integration impact assessment