

Appendix 3 Joint statement from taxi and private hire

This is a joint statement from the following licensed Taxi & Private Hire (TPH) trade groups;

- **Hackney Carriage Companies**
- **City Cabs**
- **Eurocabs**
- **Streamline/Telecabs**
- **Wheels Private Hire**
- **Private Hire Organisation LPHDO.**

The above fully accept, respect and adhere to the existing Convictions Criteria Policy and wish that Policy to remain in place and that the planned new Suitability be abolished.

Reasons for the abolishment of the planned suitability policy are as follows;

Leeds City Council (LCC) have always had higher standards than any of the neighboring authorities which gave the licensee's of LCC a sense of pride, so why do we need to raise this bar higher? At what point did the existing Convictions Criteria Policy become not fit for purpose and with what supportive evidence?

The suggested policy regarding DVLA points and other offences is both draconian and gratuitous.

While care must be taken in the driving of a licensed vehicle, it is inevitable that on occasion drivers will incur points. These points will, by the law of average be gained more frequently than a person who drives purely for Social & Domestic purposes. The average motorist will drive 7,600 miles per year (146 miles per week) yet a licensed Private Hire or Hackney driver will cover 146 miles in a single shift which puts him at a risk of obtaining DVLA points 7 times higher than a typical motorist and yet be subject to 50% less in regards to points and the ability to drive. How is this justifiable and what other department in LCC is governed by such figures, such as School Transport Drivers, or drivers of the LCC fleet of maintenance vehicles which some carry 4 times the passengers that a TPH carries or has a vehicle weight 10 times that of a licensed vehicle?

Leeds has not been placed under 'Special Measures' as Rotherham Council were and cannot use this as a catch all to implement any policy they wish, each policy and condition must be reasonably necessary and in the interests of public safety, this suggestion is neither.

The harmonisation agreement between West Yorkshire and York authorities was to combat the exploitation of cross border working, it painted over the cracks and did not address the issue legally. While officers have been given authority to check a driver and vehicle licensed in another area, that same authority does not receive revenue for doing so and is therefore working on behalf of its neighbors at the expense of its licensees. Drivers are like moths to a flame and will congregate in the busier Town or Cities while working cross border, putting immense pressure on that authority to enforce the vehicles working within its boundary which can then in turn raise the expense of enforcement that locally licensed drivers would have to endure, this is not what the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA) set out to achieve, and blaming advancement in technology for how it has been twisted is not the answer either. It is only the large corporates that abuse cross border and the LGMPA, not the smaller and more traditional companies.

One of the larger and well known companies had an issue with how bookings were accepted in London and had to ring fence that area to only allow Transport for London (TfL) licensed vehicles to operate, why was this same company not made to do this in Leeds and surrounding areas when this came to light, because the system operated in this area is no different than the system that TfL were minded to be illegal and therefore the company changed its protocols to appease TfL. The very same action should be taken in Leeds, there is by far enough evidence to support the request.

This is a classic case of being afraid of the bigger boys and therefore bullying the smaller as a way of retribute. The frustration caused to authorities by the large companies abusing the LGMPA and cross border hiring is being taken out on the drivers to alleviate the frustrations of the real cause of the matter that lies within the trade this day.

New policies cannot come at the expense of proportionality, as that only serves to undermine public's confidence in the Licensed Taxi and Private Hire trade by sending out a message that we are less worthy than other transport providers therefore deserve a harsher enforcement.

The status and validity of this Suitability Policy MUST be questioned, when the two legal authors of the original suggestion as published by the Institute of Licensing (IoL) are James Button (James Button & Co) and Philip Kolvin QC (Ubers go to lawyer). How are practicing members of the legal profession able to make policy recommendations when at least one of them has clear links to Uber, and other was at a recent Uber safety campaign to assist in their once again under threat and concern of safety London License. The two lawyers mentioned have no right to be involved in any form of policy conditions, directly or indirectly when they have allegiance to the largest company who abuses the cross-border issue due to their undeniable bias.

It has been referenced that there has been a year long dialogue with the trade regarding this policy change, and we dispute that completely. What evidence is there to support such dialogue and with what parties, we must ask the pertinent question of was it just Uber perhaps?

SOME FACTS ABOUT WHAT HAS HAPPENED UPTO THE SUITABILITY POLICY BEING APPROVED BY LCC

When this policy was first brought to our attention on 5th of March 2019 via a report submitted as a late item to the Leeds City Council Licensing Committee a DfT draft policy was attached to the report. The DfT Draft Policy is virtually the same policy as the Institute of Licensing guide.

We were informed about the DfT consultation on this draft document, we submitted a report of objection to DfT and licensing officers calling this policy very "Draconian" and that we "Vehemently" opposed to it.

We had a Trade forum meeting on 25th of March 2019 which lasted two and a half hours. Over an hour of the meeting was taken up by the Headrow Gateway pedestrianization scheme. The other topics discussed were enforcement activities of Licensing officers and the CAZ policy update was given. Only very brief comments were made on the planned policy reviews. The Suitability Policy was on the agenda as point 6b under the heading of "TPHL Policy reviews". The DfT Statutory Guidance was also on the agenda as point 8b under the heading "Consultations/Forward Plan".

The Trade representatives were informed that another meeting "Trade Forum Meeting Part 2" will be arranged to discuss the remaining items on the agenda including the TPHL Policy review and the Consultation item 8b (Point 8a, Headrow Gateway was discussed and so was the Cricket World Cup point 8c)

The Trade Forum Meeting Part 2 was arranged for Thursday 6th of June 2019. This meeting was cancelled at the request of Trade Members as the Muslim festival of Eid was taking place over them few days, and an alternative date was requested. Despite many requests this meeting never took place even though the Trade Forum Constitution as approved by LCC states a minimum of 4 Trade Forum Meeting must take place every year. We have recently received confirmation of the next Trade Forum Meeting which will be held on 28th January 2020 and further 4 dates for subsequent Trade Forum meetings have also be put in the diary.

Members of LPHDO also state that since the meeting in March 2019 they have not had any Trade forum meetings where the Suitability Policy was discussed and that many of their members did not receive the consultation emails.

The Suitability policy was presented to the LCC Licensing Committee on 5th September 2019. A letter of objection, the exact same copy as submitted to DfT, was emailed to every Councilor and the chair of the Licensing Committee stating that the Hackney Carriage trade “Vehemently” oppose the proposed policy. A lengthy debate did take place at the meeting, however at the end none of the 10 Councilors present supported the report, they were all abstaining. However legal advice was sought by the Chair of the Committee and we have been informed that the legal advice was that councilors must approve or reject the policy and they cannot all abstain. Out of the 10 Elected members only 3, yes 3, Councilors voted in favour of the policy after the legal advice.

Many policy reviews have taken place in the last 6 years and have been done through a “Working Group” process, whereby Trade representatives from the TPH sit down with a few Councilor’s from the Licensing Committee, Disability Groups and other stake holders to have open and frank discussions where all the issues surrounding proposed policy are discussed and scrutinised and a draft policy is then submitted to the full Licensing Committee for approval.

As already stated, that we were involved in a recent policy review regarding the installation of CCTV cameras in Taxis which followed that exact format. So, the question arises why was this policy not put through the “Working Group” process? Is there some hidden agenda? Or is it just a case of well we have agreed to implement this with the neighboring authorities, so we must implement it at all cost. Which of the authorities suggested such a policy and where di they get the notion from?

So many questions have gone unanswered due to the break in protocol that has worked extremely well over the years as proven above.

DO THE LCC OFFICERS AND ELECTED MEMBERS UNDERSTAND THEIR REGULATORY DUTIES?

We have asked several LCC Councilors if they are aware of the principles of “Regulators Code”? I was very surprised to hear the word “No”. The “Regulators Code” as approved by the Department for Business Innovation & Skills in 2014 and should be part of the training for all Councilors and yet appears to a missing vital part in what authorities must adhere to in their decision making and policy writing.

How can policies be made by people who do not know what their responsibilities are when scrutinising these policies?

THE REGULATORS CODE

The “Regulators Code” must be used by every Licensing Authority on every Regulatory policy;

Point 1 – Regulators should carry out their activities in a way that supports those they regulate to comply and grow

This policy neither supports the TPH drivers in Leeds or other local authorities in the Yorkshire combined authorities nor does it have points that will promote growth within the industry. In fact, this policy will deter people from applying in Leeds and seek licenses from other authorities and still come and work in Leeds. With drivers having to purchase CAZ compliant vehicles costing anything from £15k to nearly £70k for the LEVC, why would drivers want to invest in expensive and good quality vehicles knowing that one or two mistakes and that’s the end of your Taxi or Private Hire career. Let’s be honest who is going to be able to financially survive a 5 year ban because you have had domestic issue with your wife or partner even though you may have made up the next day and are back living as a happy family? (Like the Love Island host Caroline Flack) or a 3-year ban for accruing 7 points on their license? **For serious incidents we expect action to be taken and the existing policy is robust enough for such incidents and has been proven to be so.**

Point 2 – Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

LCC have only done a consultation via an email, although LCC have an English language assessment prior to issuing a license it does not mean that all license holders suddenly become computer literate and be able to read or interpret the wording of a consultation to fully understand the question and to answer the questions in a manner that reflects their opinion. These same drivers, due to a lack of communication between LCC and the trade representatives may not have understood the implications of this policy and the consultation. LCC has approximately 80% of the BAME community as license holders and this type of consultation is clearly discriminatory. Many drivers have stated that they did not even receive the consultation emails.

Point 3- Regulators should base their activities on risk

No factual evidence has been provided to the trade or elected members to say that the existing convictions criteria policy is inadequate.

No evidence has been provided to the trade and the elected members that there has been a drastic increase in speeding convictions resulting in serious injuries to the travelling public or other road users

No evidence has been provided to say that there has been a drastic increase in offences involving violence, possession of weapons and dishonesty.

Anyone found guilty of Discrimination will be banned for 7 years! Yes, that's right 7 years it's not a typing error, how is someone that has made a discriminatory remark or performed a discriminatory act gone way beyond the limits that they cannot be re-educated or re-trained. Again, what evidence supports this theory and has the question been asked if this discriminatory act was in fact another person's perception of what was said at the time only?

I could go on about regulators failure to share information about compliance and risk (I am still awaiting information requested under an FOI) or the regulators duty to ensure clear information and guidance is provided or ensure that their regulatory duties are transparent.

The whole sentencing guidelines under this suitability policy are so disproportionate that it seems to be a typical case of using a sledgehammer to crack a nut, with the potential outcome of a culling of licensed drivers to ease the pressure of the officers as previously highlighted.

CONCLUSION

The only standard response we have received from officers of Leeds City Council is that it's in the interest of "Public Safety".

Every policy has to be evidence based and as yet the HC and PH trade have not been presented with any evidence and from talking to several councilors and members of the LCC Licensing Committee they haven't been presented with any evidence either to suggest the necessity of this draconian policy.

If it is for "Public Safety" then surely LCC would impose the same standards on their own employees like Social Services and Disability transport services? The chair of the Licensing Committee Cllr Ben Garner was asked the question on Wednesday the 15th January 2020 by a HC trade member and the reply was "No it doesn't we haven't given that a thought but it's a good point".

If LCC are so conscious of Public Safety why didn't they take immediate action against their Licensed operator Uber that allowed vehicles from London, Wolverhampton, Sefton, Rossendale, Manchester, Nottingham as well as all the neighboring authorities to work in Leeds? Were they not aware of their duty to the public?

Doesn't the "Public Safety" alarm bells ring at LCC, when vehicles are observed and reported to them for having complete blacked out windows, just roundels in the front and rear screen or livery of more than one operator on the vehicle? Is it a case of we are cowards we don't want to fight the big boys so let us vent our Uber anger on the Leeds self-employed drivers!

Do the Leeds TPH driver's pick up different types of human beings that are more important than the people that travel in buses or LCC transport providers. A bus driver can carry up to 73 passengers and would only get banned for one year upon reaching 12 points unless exceptional hardship came in, and even then the bus company may not necessarily dismiss him from duties but TPH drivers only carry a maximum of 8 passengers are considered as unprofessional and not Fit and Proper at 7 Points?

Where is the proportionality?

The fact is that most of the sanctions and bans that will be imposed on the Leeds TPH drivers are disproportionate, the sentence does not fit the offense!!

The policy was first presented to the Licensing Committee and the TPH trade as DFT Statutory Guidance but then changed to the Institute of Licensing guidance, the DfT guidance is compelling, the IoL guidance has no substance behind it and can be ignored without fear.

If its "Guidance" why does it have to be implemented, when we have a perfectly reasonable policy that has been tried and tested in all courts from Magistrates to Appeal courts and found to be a fair and reasonable policy to determine a "Fit and Proper" person.

How can barristers, MPs, Councilors and Council employees understand the pressures the TPH drivers face daily when they have never worked in the industry?

How can they define or determine the policies that will have life changing impact on drivers when they have never faced the situations that many drivers face daily?

What advice or what the best form of action should a Taxi or Private Hire driver take when they have a knife put to their throat to rob them of their days/night's takings?

What advice do they have for the driver that had his throat slit from ear to ear just for his takings?

What advice do they have for the Leeds Driver [REDACTED] who was stabbed in the neck for a £3 fare?

What advice do they have for the Street Cars driver from Strabane whose face and head have been kicked out of shape?

What advice would they give to driver's that can see youths ahead with half bricks, a breeze block or even a metal pole that they are ready to launch at the driver's vehicle?

What advice would they give to a driver that is in a secluded area and has several passengers that want to beat him up, rob him and take his vehicle?

These are not made up scenarios these are factual incidents that have actually happened.

Do these policy makers or advisors think that every one of these drivers will react in the same manner or that it is it one size fits all?

The facts are that no two drivers will think the same or react in the same manner and this Suitability policy gives the driver a clear choice of stay and accept the punishment from your attackers and don't fight back (just hope and pray they don't kill you) or try to speed away from the location as you may be punished by losing your job from 3 to 10 years for speeding or being violent!!

Why isn't this type of Suitability policy applied to councilors, MPs and Council officials of LCC?

No wages or salary if you are under investigation no employment or elected position for the periods of 3, 7 or 10 years depending on the offence committed like the sentences for Taxi and Private Hire drivers?

Just to prove how ridiculous this suitability policy is, Cllr ██████████ of Cleadon, South Tyneside Council has been banned from driving for 18 months because he refused to provide a breath sample, and given a 12-month community order which includes 60 hours unpaid work and £710 in costs and victim surcharge.

A South Tyneside Council spokesperson confirmed that his conviction does not affect his position as a councilor..

REALLY?? He could be making future regulatory policies like the Suitability Policy!!

This case proves that high standards are only expected from the TPH industry and not from the people that make the policies. If the same Suitability standards were imposed on these same official's they will be screaming blue murder and protesting, what about our Working Rights? What about our Human Rights? Well what about the employment rights of the Leeds Licensed drivers and what about their Human Rights?? The sentences in the Suitability Policy are totally disproportionate to the offence committed. So, the question is why is it so different for the Taxi and Private Hire Industry?

Finally LCC, other West Yorkshire Combined Authorities and York, follow the regulators code, provide the fact based evidence as to why such a draconian policy is necessary and we may support it but don't just use the same old excuse of "Public Safety" because you as regulators have failed to keep the public safe for at least 5 years since Uber came to town!!