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## Report of the Assistant Chief Executive (Corporate Governance)

### Executive Board

Date: 17 June 2009

Subject: **Taxi and Private Hire Licensing: Age Criteria Proposals – Deputation to Full Council**

<b>Electoral Wards Affected:</b> All
<input type="checkbox"/> Ward Members consulted (referred to in report)

<b>Specific Implications For:</b>
Equality and Diversity <input type="checkbox"/>
Community Cohesion <input type="checkbox"/>
Narrowing the Gap <input type="checkbox"/>

Eligible for Call In

Not Eligible for Call In  
(Details contained in the report)

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## EXECUTIVE SUMMARY

1. This report addresses the deputation by GMB regarding the age criteria proposals for Taxi and Private Hire Licensing which was heard at full Council on 22 April 2009. Having received the deputation, Full Council referred the matter to the Executive Board for consideration. The report advises the Executive Board of the proposals which are to be considered by the Licensing and Regulatory Panel of the Council (as a delegated council function), the reasons for the proposals, the consultation being undertaken and the matters that will be considered by Licensing and Regulatory Panel when a final decision is made. Finally, the report asks Executive Board whether there are any observations that they wish to draw to the attention of Licensing and Regulatory Panel before a decision is made on the proposals.

## **1.0 Purpose Of This Report**

- 1.1 The purpose of this report is to address the deputation received by full Council on 22 April 2009 regarding the proposals to change the age criteria in Taxi and Private Hire Licensing, to explain the rationale of the proposals, the consultation undertaken and the matters that the decision makers (Licensing and Regulatory Panel under delegated council functions) will take into account.

## **2.0 Background Information**

- 2.1 On 22 April 2009, full Council received a deputation on behalf of the GMB trade union from Bill Chard, Regional Organiser and Javid Akhtar, Chairperson of the Leeds Private Hire Association, which is a branch of the GMB. The deputation principally addressed proposals to change the age criteria applied in vehicle licensing for taxi and private hire vehicles. Under the current arrangements, vehicles up to 8 years of age (from first registration) can be licensed as taxi or private hire vehicles. The proposal by officers is that this age criteria should be changed from 8 years to 6 years. This would, however, be subject to the following:
- An exceptional condition policy which will allow vehicles between 6 and 8 years to continue to be licensed as taxis and private hire vehicles if they are serviced in accordance with manufacturer's instructions throughout the lifetime of the vehicle, are well-maintained, mechanically sound, meet emission standards and has good exterior body work and paint work and high standards of interior cleanliness and comfort.
  - For existing licensed vehicles, the proposals allow continued licensing up to 8 years of age, providing that the vehicle is still with the existing proprietor and subject to 2 inspections per year from the 6th anniversary of first registration up to the 8th year.
- 2.2 These proposals were first presented to Licensing and Regulatory Panel in March 2009, following discussions of the proposals between officers and the trade. Officers presented the matter to Licensing and Regulatory Panel at that stage for information only, given the high profile that the issue was attracting. The proposals were presented to Licensing and Regulatory Panel as the relevant decision maker. The Panel holds delegated decision making power in respect of taxi and private hire licensing which is a council function. This power is delegated by Council to the Licensing and Regulatory Panel at the Annual General Meeting. Because the functions concerned are council functions, the final decision is a matter for Licensing and Regulatory Panel rather than the Executive Board, and the matter is not eligible for call-in.
- 2.3 At the Licensing and Regulatory Panel meeting in March, officers outlined the proposals, together with concerns that had been raised. Members of the GMB drivers branch were able to address the meeting. It became apparent at that meeting that there was some misunderstanding amongst the trade as to the implications of these proposals and the operation of the exceptional condition policy in particular. Members of the Licensing and Regulatory Panel were advised that further and extensive consultation was planned before the matter would be returned to the Panel for a final decision.

### **3.0 Main Issues**

- 3.1 The deputation to Full Council which is now being considered by Executive Board asks for "this proposed flawed and unnecessary legislation" to be "squashed". As will be seen from the background information, no decision has yet been made in respect of a change to the age criteria. Extensive consultation has been undertaken since the matter was considered in March including work to dispel some of the misunderstandings around the proposals, and the results of that consultation will be presented to Licensing and Regulatory Panel for a final decision to be made in July 2009. In any event, it would not be open to Executive Board to substitute its decision of Licensing and Regulatory Panel, as taxi and private hire licensing functions are council functions and not executive functions.

#### Background to the Proposals

- 3.2 The functions of taxi and private hire licensing fall to Leeds City Council as the District Council for the area. The legislation underpinning the licensing regime has been around for a considerable number of years, some if it dating back to 1847. However, the key factor which underpins the licensing regime has remained constant, and that is the requirement to operate the regime with public safety as the paramount issue.
- 3.3 In October 2006, the Department for Transport issued guidance to Licensing Authorities "Taxi and Private Hire Vehicle Licensing: Best practice Guidance", which emphasised this role. An extract from the Guidance on age criteria is attached at Appendix 1. Members will note that the Guidance is that such criteria should not be arbitrary or inappropriate. Officers do not feel that the current proposals are either arbitrary or inappropriate.
- 3.4 As part of ongoing improvements to the licensing regime, the council's vehicle examiners have been systematically inspecting vehicles by age group, starting with those of 6 years plus. The results of those inspections are attached as Appendix 2 to this report. Members will note that of the 115 hackney carriage vehicles that were required to attend for inspection, only 27 passed the test on the first occasion, whilst 45 vehicles failed the test, 23 vehicles were in a sufficiently poor condition to be suspended and 7 vehicles were subject to surrender of the licence. 13 vehicles were not presented for inspection. 11 of those were later inspected and only 1 of those 11 passed the inspection, with 6 failing, 3 being suspended and 1 licence being surrendered. Of private hire vehicles, 740 were required to attend, of which only 138 passed the test on the first occasion. 230 vehicles failed the test, 78 were suspended, 32 had their licence revoked and 45 vehicles had their licence surrendered. Members will note from this information that a high proportion of vehicles aged between 6 and 7 years did not meet the required standard on inspection. It is important to note that the standard to which these vehicles has judged has not been changed as a result of these proposals. In other words, we can conclude that the older the vehicle, the more likely it is to be in an unsatisfactory and possibly unsafe condition.
- 3.5 It became apparent during the Licensing and Regulatory Panel meeting in March 2009 and in subsequent discussions between officers and the trade that some drivers believe that vehicles over 6 years of age will not be licensed. This is not accurate. The exceptional condition policy is not intended to ensure that no cars will pass the test and has not been designed for that reason. A vehicle which passes the exceptional conditions test will be a vehicle that is well-maintained, mechanically sound, meets emissions standards, has good exterior body work and paint work,

meets high standard of interior cleanliness and comfort, with accompanying evidence of a service history in accordance with manufacturer's instructions throughout the lifetime of the vehicle. In other words, providing the vehicle is well-maintained, there is no reason why it cannot continue to be licensed up to 8 years of age. The rationale behind the proposals is that of public safety, and that is a suitable and appropriate matter for the Licensing and Regulatory Panel to consider in setting any taxi and private hire licensing policy.

### Consultation

3.6 One of the key issues arising from the discussion of the proposals at Licensing and Regulatory Panel in March 2009 was the need for further consultation with the trade to ensure that all those that might be affected fully understood the proposals and the implications of them. Attached at Appendix 3 to this report is a copy of the consultation booklet issued to every licence holder in April 2009, which contains details of the proposals and how feedback could be provided. Attached at Appendix 4 is a copy of the Licensing Leeds newsletter, issued to every licence holder at the beginning of April 2009 and published on the Council's web page, setting out the proposals and feedback methods.

3.7 In addition, the following activities have been undertaken:

- Four full open consultation days on the proposed changes took place on the following dates:

Tuesday 7 April – Carlisle Business Centre, Bradford

Thursday 9 April – Temple Newsam, Leeds

Friday 17 April – Pudsey Civic Hall, Leeds

Monday 1 June – Pudsey Civic Hall, Leeds

These sessions were hourly drop-in sessions from 9.30 am to 4.00 pm.

- An e-mail was sent to private hire operators and taxi associations, where an e-mail address was held, on 2 April asking them to circulate details of the open days to their drivers, and leaflets were distributed by officers to operators and hackney carriage bases on 3 April. A further email was sent to private hire operators and taxi associations, where an e-mail address was held, on 15 May asking them to circulate details of the 'mop up' open day to their drivers, and invitation letters to individual licence holders were sent on 21 May.
- A questionnaire from an external company who are reviewing the demand for taxi licences in Leeds on behalf of the Council. Questions of the age criteria were included within that survey, which was sent to all licence holders.

- The Taxi and Private Hire Licensing web page was updated with the proposals on 25 March, with details of the open days on 2 April.
- The information screens in the Taxi and Private Hire Licensing Section's reception area were updated on 2 April with details of the open day.
- A detailed question and answer guide has been sent to the home of every licensed driver, setting out how any proposed change may affect them.
- Members of the GMB have had a personal meeting with officers.
- Where complaints have been received that one taxi company did not distribute the information in time for the open day, an arrangement has been agreed whereby Directors of the company will consult with the drivers, prepare a list of questions and meet with the relevant officers to be given detailed feedback.

#### **4.0 Implications For Council Policy And Governance**

- 4.1 The setting of a policy on the age of vehicles that will be licensed in Leeds is a Taxi and Private Hire Licensing function delegated to the Licensing and Regulatory Panel and to relevant officers. There is no statutory requirement to have taxi and private hire licensing policies, although they have been in common use for a number of years across all Licensing Authorities. Policies are generally regarded as useful, as they give clear guidance to potential applicants on what the Council considers to be acceptable, and provides the framework for consistent decision making.
- 4.2 The making of an age criteria policy is within the remit of the Licensing and Regulatory Panel as it relates to a Council function and not an executive function. However, because the final decision has not yet been made, it is a matter on which Executive Board could comment, and those comments can be taken into account when the final decision is made.

#### **5.0 Legal And Resource Implications**

- 5.1 As with all Council policies, it is possible to challenge a policy that is unreasonable by way of Judicial Review. Should such a challenge be brought, it would be brought after Licensing and Regulatory Panel make a final decision.
- 5.2 There are no resource implications from this report. There are resource implications if the new policy is adopted. These will be addressed as part of the final report to Licensing and Regulatory Panel. In summary, however, fees will be charged to the trade for the necessary inspections, and those fees will cover the cost of implementing this policy, should that be the decision.

#### **6.0 Conclusions**

- 6.1 That the policy cannot be quashed, as it has not yet been approved.
- 6.2 The matter falls within the remit of the Licensing and Regulatory Panel.
- 6.3 That extensive consultation has been and is still being undertaken which will be reported to the Licensing and Regulatory Panel before a decision is made.
- 6.4 That part of the concern raised by the deputation is due to a misunderstanding amongst drivers as to how the exceptional condition policy will operate, and the implications of that for individual licensed vehicles.

## **7.0 Recommendations**

- 7.1 That the Executive Board note the contents of this report, the rationale behind the proposals and the information that will be available to the decision makers.
- 7.2 Any comments from Executive Board will need to be fed back to the Licensing and Regulatory Panel to be considered as part of their final decision on the matter.

## **8.0 Background Papers**

- 8.1 Interim Report – Proposals to change the ‘Age Criteria’ Condition upon Hackney Carriage and Private Hire Saloon and People Carrier Vehicle Licences.
- 8.2 Taxi and Private Hire Licensing: Best Practice Guidance